

## **Everest Advisory**

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09/01/11

This Brochure provides information about the qualifications and business practices of Gary L. Rutherford. If you have any questions about the contents of this Brochure, please contact us at (816) 767-0308 and/or [everestbroker@aol.com](mailto:everestbroker@aol.com). The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

Gary L. Rutherford is a registered investment adviser. Registration of an Investment Adviser does not imply any level of skill or training. The oral and written communication of an Adviser provide you with information about which you determine to hire or retain an Adviser.

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

## Item 2 – Material Changes

On July 28, 2010, the United States Securities and Exchange Commission published “Amendments to Form ADV” which amends the disclosure document that we provide to clients as required by SEC Rules. This Brochure dated 09/01/11 is a new document prepared according to the SEC’s new requirements and rules.

In the future, this Item will discuss only specific material changes that are made to the Brochure and provide clients with a summary of such changes. We will also reference the date of our last annual update of our brochure.

Pursuant to new SEC Rules, we will ensure that you receive a summary of any material changes to this and subsequent Brochures within 120 days of the close of our business’ fiscal year. We may further provide other ongoing disclosure information about material changes as necessary.

We will further provide you with a new Brochure as necessary based on changes or new information, at any time, without charge.

Currently, our Brochure may be requested by contacting Gary L. Rutherford C.E.O. at (816)767-0308 or [everestbroker@aol.com](mailto:everestbroker@aol.com).

Additional information about Gary L. Rutherford is also available via the SEC’s web site [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). The SEC’s web site also provides information about any persons affiliated with Everest Advisory who are registered, or are required to be registered, as investment adviser representatives of Everest Advisory.

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#### **Item 4 – Advisory Business**

Everest Advisory is a newly formed Registered Investment Adviser, and as such has no assets under management. Assets under management are calculated as of 09/01/11. We are a sole proprietor, and 100% owned by its Chief Compliance Officer (CCO) Gary L. Rutherford who has eight years' experience as a financial adviser. Everest Advisory offers portfolio management, financial planning, estate planning and tax planning for its clients. We use an assortment of investment products to accomplish this, such as stocks, ETF's, corporate bonds, municipal bonds, government securities (T-Bills, T-Notes, T-Bonds), mutual funds, managed futures, options and futures.

It is possible for clients of Everest Advisory to place restrictions on certain securities and types of securities held in their portfolios. Socially responsible mutual funds are one example. A client's individual goals, investment horizons, needs and tolerance for risk are considered before making any investment recommendation.

Everest Advisory does not participate in any wrap fee programs that require Everest Advisory to provide portfolio management. Everest Advisory does not manage client assets on a discretionary basis, all assets are managed on a non-discretionary basis.

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

All fees are subject to negotiation.

The specific manner in which fees are charged by Everest Advisory is established in a client's written agreement with Everest Advisory. Everest Advisory will generally bill its fees on a quarterly basis. Clients may elect to be billed in advance or arrears each calendar quarter. Clients may also elect to be billed directly for fees or to authorize Everest Advisory to directly debit fees from client accounts.

Management fees shall be prorated for each capital contribution and withdrawal made during the applicable calendar quarter (with the exception of de minimis contributions and withdrawals).

Accounts initiated or terminated during a calendar quarter will be charged a prorated fee. Upon termination of any account, any prepaid, unearned fees will be promptly refunded, and any earned, unpaid fees will be due and payable.

Everest Advisory's fees are exclusive of brokerage commissions, transaction fees, and other related costs and expenses which shall be incurred by the client. Clients may incur certain charges imposed by custodians, brokers, third party investment and other third parties such as fees charged by managers, custodial fees, 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. Mutual funds

and exchange traded funds also charge internal management fees, which are disclosed in a fund's prospectus. Such charges, fees and commissions are exclusive of and in addition to Everest Advisory's fees, and Everest Advisor shall not receive any portion of these commissions, fees, and costs.

Item 12 further describes the factors that Everest Advisory considers in selecting or recommending broker-dealers for *client* transactions and determining the reasonableness of their compensation (e.g., commissions). Pertaining to mutual funds, no-load mutual funds will be recommended to clients whenever possible. Everest Advisory, or any of its supervised persons, do not accept compensation for the sale of securities or other investment products which are recommended to clients. The only exception to this pertains to insurance products, when needed to accomplish the investment needs of clients. Everest Advisory does not accept commissions or mark-ups for the sale of securities.

Clients have the option of purchasing investment products we recommend from other brokers or agents not affiliated with our firm.

#### **Item 6 – Performance-Based Fees and Side-By-Side Management**

Everest Advisory does not charge any performance-based fees (fees based on a share of capital gains on or capital appreciation of the assets of a client).

#### **Item 7 – Types of Clients**

Everest Advisory provides portfolio management services to individuals, high net worth individuals, corporate pension and profit-sharing plans, Taft-Hartley plans, charitable institutions, foundations, endowments, municipalities, registered mutual funds, private investment funds, trust programs, sovereign funds, , and other U.S. and international institutions.

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

Investing in securities involves risk of loss that clients should be prepared to bear. The method of analysis and investment strategy used in providing advice for clients is centered around asset allocation. According to studies, ninety-six percent of a portfolios return is due to asset allocation, not specific investment products chosen. Investments are broken down into three asset classes; equities, fixed income and cash. The percentage weight of each class is determined by the investment goals, objectives, tolerance for risk and time horizons of each client. It should be noted that there are different

risk levels within each asset class dependent on the specific investment selected. Equities generally involve more risk than fixed income investments.

Under normal circumstances, a buy and hold strategy is used. Frequent trading of securities within a client's account is not done. A long-term horizon is suggested. Markets fluctuate from time to time, bear markets are as much a reality as bull markets. This is why the initial asset allocation of the client is so important. Risk tolerance is a personal choice for each client.

#### **Item 9 – Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of Everest Advisory or the integrity of Everest Advisory's management. Everest Advisory has no information pertaining to disciplinary actions.

In 2003 Gary L. Rutherford, C.E.O. of Everest Advisory, was diagnosed with a Bipolar Disorder. Prior to getting treatment Gary L. Rutherford acquired a misdemeanor for shop lifting. This offense was a function of the disease and no other offenses occurred after treatment began.

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

Everest Advisory has no information applicable to this item.

#### **Item 11 – Code of Ethics**

Everest Advisory has adopted a Code of Ethics for all supervised persons of the firm describing its high standard of business conduct, and fiduciary duty to its clients. The Code of Ethics includes provisions relating to the confidentiality of client information, a prohibition on insider trading, a prohibition of rumor mongering, restrictions on the acceptance of significant gifts and the reporting of certain gifts and business entertainment items, and personal securities trading procedures, among other things. All supervised persons at Everest Advisory must acknowledge the terms of the Code of Ethics annually, or as amended.

Everest Advisory anticipates that, in appropriate circumstances, consistent with clients' investment objectives, it will cause accounts over which Everest Advisory has management authority to effect, and will recommend to investment advisory clients or prospective clients, the purchase or sale of securities which Everest Advisory, its affiliates and/or clients, directly or indirectly, have a position of interest.

Everest Advisory's employees and persons associated with Everest Advisory are required to follow Everest Code of Ethics. Subject to satisfying this policy and applicable laws, officers, directors and employees of Everest Advisory and its affiliates may trade for their own accounts in securities which are recommended to and/or purchased for Everest Advisory's clients. The Code of Ethics is designed to assure that the personal securities transactions, activities and interests of the employees of Everest Advisory will not interfere with (i) making decisions in the best interest of advisory clients and (ii) implementing such decisions while, at the same time, allowing employees to invest for their own accounts. Under the Code certain classes of securities have been designated as exempt transactions, based upon a determination that these would materially not interfere with the best interest of Everest Advisory's clients. In addition, the Code requires pre-clearance of many transactions, and restricts trading in close proximity to client trading activity. Nonetheless, because the Code of Ethics in some circumstances would permit employees to invest in the same securities as clients, there is a possibility that employees might benefit from market activity by a client in a security held by an employee. Employee trading is continually monitored under the Code of Ethics, and to reasonably prevent conflicts of interest between Everest Advisory and its clients.

Certain affiliated accounts may trade in the same securities with client accounts on an aggregated basis when consistent with Everest Advisory's obligation of best execution. In such circumstances, the affiliated and client accounts will share commission costs equally and receive securities at a total average price. Everest Advisory will retain records of the trade order (specifying each participating account) and its allocation, which will be completed prior to the entry of the aggregated order. Completed orders will be allocated as specified in the initial trade order. Partially filled orders will be allocated on a pro rate basis. Any exceptions will be explained in the order.

Everest Advisory's clients or prospective clients may request a copy of the firm's Code of Ethics by contacting Gary L. Rutherford.

It is Everest Advisory's policy that the firm will not affect any principal or agency cross securities transactions for client accounts. Everest Advisory 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 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**

Soft dollar benefits are not limited to those clients who may have generated a particular benefit although certain soft dollar allocations are connected to particular clients or groups of clients.

*And/or*

Soft dollar benefits are not proportionally allocated to any accounts that may generate different amounts of the soft dollar benefit.

#### **Item 13 – Review of Accounts**

Client's accounts and financial plans are reviewed periodically, usually on a semi-annual basis. Individual objectives and goals are compared to the actual performance of the client's portfolio. Reviews are only done by investment advisor representatives of Everest Advisory. Performance reports are generated on a quarterly basis for each client.

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

Everest Advisory accepts client referrals. No one who is not a client provides an economic benefit to Everest Advisory for providing investment advice to our clients. Everest Advisory does not compensate non-supervised persons for client referrals.

#### **Item 15 – Custody**

Clients should receive at least quarterly statements from the broker dealer, bank or other qualified custodian that holds and maintains client's investment assets. Everest Advisory urges you to carefully review such statements.

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

Everest Advisory usually receives discretionary authority from the client at the outset of an advisory relationship to select the identity and amount of securities to be bought or sold. In all cases, however, such discretion is to be exercised in a manner consistent with the stated investment objectives for the particular client account.

When selecting securities and determining amounts, Everest Advisory observes the investment policies, limitations and restrictions of the clients for which it advises. For registered investment companies, Everest Advisory's authority to trade securities may also be limited by certain federal securities and tax laws that require diversification of investments and favor the holding of investments once made.



Investment guidelines and restrictions must be provided to Everest Advisory in writing.

#### **Item 17 – Voting Client Securities**

As a matter of firm policy and practice, Everest Advisory does not have any authority to and does not vote proxies on behalf of advisory clients. Clients retain the responsibility for receiving and voting proxies for any and all securities maintained in client portfolios. Everest Advisory may provide advice to clients regarding the clients' voting of proxies.

#### **Item 18 – Financial Information**

Registered investment advisers are required in this Item to provide you with certain financial information or disclosure about Everest Advisory's financial condition. Everest Advisory has no financial commitment that impairs its ability to meet contractual and fiduciary commitments to clients, and has not been the subject of a bankruptcy proceeding.

