

**FORM ADV PART 2A: Firm Brochure**

**Banyan Equity Management, LLC**

7284 West Palmetto Park Road  
Suite 303  
Boca Raton, Florida 33433  
(561) 338 - 8711

**February 10, 2017**

**This Brochure provides information about the qualifications and business practices of Banyan Equity Management, LLC (“Banyan”). If you have any questions about the contents of this Brochure, please contact Michael Aronovitz, Chief Compliance Officer (“CCO”), at (561) 338-8711 or [michael@banyancap.com](mailto:michael@banyancap.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.**

**Banyan is a registered investment adviser. Registration as an investment adviser does not imply that Banyan or any of its principals or employees possesses a particular level of skill or training in the investment advisory business or any other business.**

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

**Item 2: Material Changes**

---

This is the initial Form ADV Part 2A filing for Banyan and as such, there are no material changes to report. In the future, Banyan will use this Item to report any necessary material updates.

**Item 3: Table of Contents**

---

Item 1: Cover Page.....	1
Item 2: Material Changes.....	2
Item 4: Advisory Business .....	4
Item 5: Fees and Compensation .....	4
Item 6: Performance-Based Fees and Side-By-Side Management.....	5
Item 7: Types of Clients .....	5
Item 8: Methods of Analysis, Investment Strategies and Risk of Loss.....	5
Item 9: Disciplinary Information .....	15
Item 10: Other Financial Industry Activities and Affiliations .....	15
Item 11: Code of Ethics, Participation or Interest in Client Transactions and Personal Trading .....	15
Item 12: Brokerage Practices .....	16
Item 13: Review of Accounts .....	17
Item 14: Client Referrals and Other Compensation .....	18
Item 15: Custody.....	18
Item 16: Investment Discretion .....	18
Item 17: Voting Client Securities.....	18
Item 18: Financial Information.....	19

#### Item 4: Advisory Business

---

Founded in 2000, Banyan Equity Management, LLC ("**Banyan**", the "**Firm**" or "**we**", "**us**" or "**our**"), is a Delaware limited liability company that currently provides discretionary investment advisory services and management services to separately managed accounts for institutional clients (each a "**Client**" and collectively, the "**Clients**"). Banyan generally manages the investments for the Clients on a pari passu basis. Banyan does not actively solicit separate account clients.

Banyan engages on behalf of our Clients in a "Global Macro" trading strategy. In effecting that strategy, we engage for our Clients in short-term trades in futures and options contracts in the U.S. markets on equity indices, U.S. government debt instruments, currencies, commodities and individual stocks, exchange-traded funds ("**ETFs**") and engage in short-term trades in futures contracts in foreign markets on equity indices and European government debt instruments. We do so on the basis of our assessment of dislocations (i.e., when securities are not correctly priced and cause a sudden repricing) and correlations (i.e., when markets or securities move up or down concurrently with other markets or securities in a way not attributable solely to chance) between markets. We take an active approach to trading, changing our Clients' positions frequently in response to shifting conditions. In general, we do not intend to tailor our investment management strategies to suit the needs of individual Clients and we do not intend to enter into investment management agreements that impose restrictions on our trading frequency or the volatility of our trading results, but we may in the future, periodically entered into investment management arrangements that provide that we will not trade in certain kinds of securities that do not figure in our trading strategies.

As of February 1, 2017 we manage \$129,000,000, all on a discretionary basis.

Laurence R. Benedict is our sole manager and 100% owner.

#### Item 5: Fees and Compensation

---

Pursuant to the investment management agreements with our Clients, we receive an "Expense Draw" from each Client, paid monthly in advance based on the closing net asset value of the applicable account at the end of the preceding month. The specific arrangements applicable to each Client account in this respect are governed by the applicable investment management agreement between Banyan and the Client.

Our performance fees are generally computed annually (or upon a Client account termination) and are subject to a "loss recovery" principle. In other words, the performance fee is calculated only on the amount by which net capital appreciation of a Client's account (taking into account both realized and unrealized gains and losses) exceeds that investor's "Unrecouped Losses." Unrecouped Losses, if any, in the applicable account are losses accrued in prior periods (again, taking into account both realized and unrealized gain and losses), reduced (but not below zero) by all profits subsequently accrued in the account in subsequent fiscal periods.

Our Clients also pay their own legal, administration, custody, compliance and audit expenses and, as described further below under "Brokerage Practices," the brokerage commissions, transaction fees and other related costs and expenses (such as deferred sales charges, odd-lot differentials, transfer taxes and wire and electronic fund transfer fees) that we incur on their behalves in connection with managing their accounts.

Our Clients pay us after having been billed for our services or after having calculated the amount they owe us subject to our approval.

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

---

Banyan receives a performance-based compensation from Clients, generally equal to 20% - 30% of the net profits. The terms of such performance-based compensation arrangements are set forth in each Client's investment management agreement. Banyan may reduce, waive or calculate differently the performance-based compensation for Clients.

The terms of the performance-based compensation may differ among the Clients. This may result in a conflict of interest when allocating opportunities among Clients, as we may have an incentive to favor Clients that have higher performance-based compensation. To avoid such a conflict of interest, we have developed documented procedures for allocating opportunities among Clients in a fair and equitable manner whereby, we manage all our Client accounts on a pari passu basis using the same investment strategy. Therefore, we believe the payment of performance fees does not present a conflict of interest that might occur if we had an incentive to favor one Client account over another.

## **Item 7: Types of Clients**

---

We deem our Clients to be the separately managed accounts of institutions. While we do not actively solicit Client accounts, the minimum size we generally will accept for management in a Separate Account is \$20 million.

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

---

### ***Investment Strategy***

Our investment strategy seeks to take advantage of market opportunities created by macroeconomic factors by using portfolios of futures, equity securities and options in different global markets. We also periodically trade in individual equity securities. Using a combination of technical, fundamental and discretionary analyses, Mr. Benedict is focused on reacting quickly to movements and dislocations in global markets and often trade on a counter-trend basis to establish short term positions based on macroeconomic factors, such as volatility increases and decreases in the marketplace, to take advantage of the opportunities identified. Without limiting our strategy's flexibility, and subject to market conditions, the instruments we trade

usually consist of financial-related futures, commodity-related futures, equities and ETFs and options, comprising trades in the highly liquid and broad-based securities of the top five global economies, including: S&P 500, Nasdaq, DAX, Nikkei, 10-year notes, 30-year U.S. bonds, Bunds, currencies, and oil, gas, gold, and, opportunistically, other commodities. Our investment approach seeks to generate absolute returns (i.e., without correlation with gains or losses attributable to rises and falls in market averages) while maintaining liquidity and managing risk to avoid permanent losses.

We constantly monitor our Clients' positions and attempt to manage risk by constructing and actively managing the portfolio through our proprietary process, which includes:

- a flexible and adaptive trading approach;
- investing in diversified long and short positions across markets and asset classes;
- using options, including to deflect market volatility and decrease risk;
- employing stop losses, which is a trading technique, to protect against adverse price movements; and
- maintaining a highly liquid portfolio.

We use a strict risk management approach that results in our taking less risk on behalf of our Clients when our performance has been poor and more risk when our performance has been positive, which we believe mitigates the risk of significant investment losses. Because our holding period is typically very short and requires liquidity in order to exit trades, the market environment under in which we tend to have the most difficulty is during periods of low market liquidity. In periods of low market liquidity, we generally trade less frequently and would expect our performance to be lower than is otherwise typical.

We utilize leverage in our investment program, and we invest in products, such as futures contracts, that are inherently leveraged. When we consider it appropriate, we engage in short sales, options and futures transactions that generate gains when the markets for, or the price of, particular securities or commodities fall.

Our investment program is speculative and entails substantial material risks. We can provide no assurance that we will achieve our investment objectives, and our results can be expected to vary substantially over time. In fact, the short term, opportunistic trading strategies we employ can, in certain circumstances, expose our Client accounts to substantial risk of loss. In addition, our rapid trading strategy could adversely affect our investment performance as a result of increased brokerage and other transaction costs and may give rise to increased taxes imposed upon our Clients in relation to trading strategies that are aimed at generating long-term gains.

We may modify our investment objectives and strategies at any time, subject to the terms of the agreements that govern our Client accounts.

### **Risk Factors**

All investments involve the risk of loss, including (among other things) loss of principal, a reduction in earnings (including interest, dividends and other distributions) and the loss of future earnings. Other relevant risks relating to Banyan include market risk, interest rate risk, issuer risk and general economic risk. Although we strive to manage our Clients' assets in a manner consistent with risk tolerances, we can provide no guarantee that our efforts will be successful.

Investing in securities and other financial instruments involves risk of loss that Clients should be prepared to bear. The following explanation of certain risks is not exhaustive, but rather highlights some of the more significant risks involved in Banyan's investment strategy.

In addition to the general risks involved in implementing our investment strategy that we note above, other risks relate to, among other things: our key reliance on Mr. Benedict; the use of leverage; non-diversification; rapid turn-over; investment in derivative securities and other derivative instruments, including option transactions of all kinds and convertible securities; the cost and uncertain success of hedging; short selling; the possibilities that our investments may not have the liquidity that we anticipate and that trading could be suspended on the markets in which we invest; investment in non-U.S. securities and other instruments, including emerging market securities, and on non-U.S. exchanges and markets, including currency risk; investing in foreign sovereign debt; investing in debt securities, including interest rate and credit risk; engaging in over-the-counter transactions; broker-dealer failure; the impact of future regulatory changes; and the possibility that our performance based fees could motivate us to make riskier or more speculative investments than we otherwise would.

**Reliance on Key Personnel.** The Clients will be substantially dependent on the services of Mr. Laurence Benedict. In the event of the death, disability, departure or insolvency of Mr. Benedict, or the complete transfer of Mr. Benedict's interest in Banyan, the Clients may be adversely affected. Mr. Benedict will devote such time and effort as he deems necessary for the management and administration of the Banyan's business. However, Mr. Benedict may engage in various other business activities in addition to managing the Clients, and consequently may not devote all time to Banyan's business.

**Nature of Investments.** Banyan has broad discretion in making investments for the Clients. There can be no assurance that Banyan will correctly evaluate the nature and magnitude of the various factors that could affect the value of and return on investments. Prices of investments may be volatile, and a variety of factors that are inherently difficult to predict, such as domestic or international economic and political developments, may significantly affect the results of the Clients' accounts and the value of investments. In addition, the value of the Clients' portfolios may fluctuate as the general level of interest rates fluctuates. No guarantee or representation is made that the Clients' investment objective will be achieved.

**Substantial Changes in Regulation.** Regulation of securities markets has undergone substantial change in recent years, and is expected to continue to change. There can be no assurance that we will be able, for financial reasons or otherwise, to comply with future laws and regulations.

**Dodd-Frank Act.** The U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Dodd-Frank Act**") was enacted in July 2010. The Dodd-Frank Act has resulted in extensive rulemaking and regulatory changes that affect private fund managers, the funds that they manage and the financial industry as a whole. Under the Dodd-Frank Act, the U.S. Commodity Futures Trading Commission and the SEC have mandated (and will mandate) new recordkeeping, reporting, central clearing and trading on electronic facilities requirements for investment advisers, which add costs to the legal, operational and compliance obligations of Banyan and the Clients and increase the amount of time that we spend on non-investment-related activities. The Dodd-Frank Act affects a broad range of market participants with whom the Clients interact or may interact, including banks, non-bank financial institutions, rating agencies, mortgage brokers, credit unions, insurance companies, payday lenders and broker dealers, which may change the way in which we conduct business with our counterparties. It may take years to understand the impact of the Dodd-Frank Act on the financial industry as a whole, and therefore, the continued uncertainty may make markets more volatile and may make it difficult for Banyan to execute the investment strategy of the Clients.

**Counterparty Risk.** Banyan expects to cause the Clients to establish relationships to obtain financing, derivative intermediation and prime brokerage services that permit the Clients to trade in any variety of markets or asset classes over time. However, there can be no assurance that Banyan or the Clients will be able to establish or maintain such relationships on behalf of the Clients. An inability to establish or maintain such relationships could limit the Clients' trading activities, create losses, preclude the Clients from engaging in certain transactions or prevent the Clients from trading at optimal rates and terms. Moreover, a disruption in the financing, derivative intermediation and prime brokerage services provided by such relationships could have a significant impact on the Clients' business due to the Clients' reliance on such counterparties.

**Systemic Risk.** Systemic risk is the risk of broad financial system stress or collapse triggered by the default of one or more financial institutions, which results in a series of defaults by other interdependent financial institutions. Financial intermediaries, such as clearing houses, banks, securities firms and exchanges with which Banyan and the Clients interact, are all subject to systemic risk. A systemic failure could have material adverse consequences on the Clients and on the markets for the Securities in which Banyan seeks to invest.

**Assumption of Business, Terrorism and Catastrophe Risks.** Banyan and the Clients may be subject to the risk of loss arising from exposure that it may incur, indirectly, due to the occurrence of various events, including, without limitation, hurricanes, earthquakes, and other natural disasters, terrorism and other catastrophic events. These risks of loss can be substantial and could have a material adverse effect on the Clients and the investments.

**Systems and Operational Risks Generally.** Certain of Banyan's activities will be dependent upon systems operated by third parties, including prime brokers, the administrator, market counterparties and other service providers, and we may not be in a position to verify the risks or reliability of such third-party systems. Failures



in the systems employed by Banyan, prime brokers, counterparties, exchanges and similar clearance and settlement facilities and other parties could result in mistakes made in the confirmation or settlement of transactions, or in transactions not being properly booked, evaluated or accounted for.

**Cybersecurity Risk.** As part of its business, Banyan processes, stores and transmits large amounts of electronic information, including information relating to the transactions of the Clients and personally identifiable information. Similarly, service providers of Banyan may process, store and transmit such information. Banyan has procedures and systems in place that it believes are reasonably designed to protect such information and prevent data loss and security breaches. However, such measures cannot provide absolute security. The techniques used to obtain unauthorized access to data, disable or degrade service, or sabotage systems change frequently and may be difficult to detect for long periods of time. Hardware or software acquired from third parties may contain defects in design or manufacture or other problems that could unexpectedly compromise information security. Network connected services provided by third parties to the Firm may be susceptible to compromise, leading to a breach of Banyan's network. Banyan's systems or facilities may be susceptible to employee error or malfeasance, government surveillance, or other security threats. Breach of Banyan's information systems may cause information relating to the transactions of the Clients and personally identifiable information of the Clients to be lost or improperly accessed, used or disclosed.

The service providers of Banyan and the Client accounts are subject to the same electronic information security threats as Banyan. If a service provider fails to adopt or adhere to adequate data security policies, or in the event of a breach of its networks, information relating to the transactions of the Clients and personally identifiable information of the Clients may be lost or improperly accessed, used or disclosed.

The loss or improper access, use or disclosure of Banyan's or the Clients' proprietary information may cause the Firm or the Clients to suffer, among other things, financial loss, the disruption of its business, liability to third parties, regulatory intervention or reputational damage. Any of the foregoing events could have a material adverse effect on the Clients' investments.

**Exposure to Material Non-Public Information.** From time to time, Banyan may receive material non-public information with respect to an issuer of publicly traded securities. In such circumstances, Banyan, in advising the Clients, may be prohibited, by law, policy or contract, for a period of time from (i) unwinding a position in such issuer, (ii) establishing an initial position or taking any greater position in such issuer, and (iii) pursuing other investment opportunities related to such issuer. The lack of liquidity caused by Banyan's possession of material non-public information may inhibit Banyan on behalf of the Clients' ability to react to market changes impacting certain of its investments. Because it is often difficult to determine whether or not information is material non-public information, there may be instances where Banyan restricts its trading activities when it is not technically required to do.

**Equity Securities Generally.** The value of equity securities of public and private, listed and unlisted companies and equity derivatives generally varies with the performance of the issuer and movements in the equity markets. As a result, the Clients may suffer losses if Banyan causes them to invest in equity instruments of issuers whose performance diverges from Banyan's expectations or if equity markets generally move in a single direction and Banyan has not caused the Client accounts to hedge against such a general move. The Client accounts also may be exposed to risks that issuers will not fulfill contractual obligations such as, in the case of convertible securities or private placements, delivering marketable common stock upon conversions of convertible securities and registering restricted securities for public resale.

**Long Term.** The success of Banyan's long-term investment strategy depends upon the Firm's ability to identify and purchase securities that are undervalued and hold such investments so as to maximize value on a long-term basis. In pursuing any long-term strategy, Banyan may cause the Clients to forego value in the short-term or temporary investments in order to be able to avail the Clients of additional and/or longer-term opportunities in the future.

**Derivative Instruments Generally.** Certain swaps, options and other derivative instruments may be subject to various types of risks, including market risk, liquidity risk, the risk of non-performance by the counterparty, including risks relating to the financial soundness and creditworthiness of the counterparty, legal risk and operations risk. Derivatives traded over-the-counter may not have an authoritative source of valuation and the models used to value such derivatives are subject to change. Special risks may apply in the future that cannot be determined at this time with respect to certain other derivative instruments that are not presently contemplated for use or that are currently not available. The regulatory and tax environment for derivative instruments in which Banyan may cause Clients to participate is evolving, and changes in the regulation or taxation of such securities may have a material adverse effect on the Clients.

**Commodity Sensitivity.** The Client accounts will hold investments that are exposed to fluctuations in the value of certain commodities. The values of commodities which underlie or impact the securities, commodity futures contracts and other types of financial instruments held by the client are generally affected by, among other factors, the cost of producing commodities, changes in consumer demand for commodities, the hedging and trading strategies of producers and consumers of commodities, speculative trading in commodities by commodity pools and other market participants, disruptions in commodity supply, the level of exploration and development success, weather and climate conditions, natural disasters, acts of terrorism, technological developments, changes in interest rates, rates of inflation, currency devaluations and revaluations, embargoes, tariffs, regulatory developments (whether local, national or global), governmental, agricultural, trade, fiscal, monetary and exchange control programs and policies, political events (whether local, national or global) and global economic factors. In addition, governments from time to time intervene, directly and by regulation, in certain markets, often with the intent to influence prices directly. The effects of governmental intervention may be particularly significant at certain times in certain markets and this intervention may cause these markets to move rapidly. Banyan has

no control over the factors that affect the price of commodities. Accordingly, the value of the Clients' investments could change substantially and in a rapid and unpredictable manner.

**Leverage for Investment Purposes.** The use of leverage will allow Banyan to make additional investments on behalf of the Clients, thereby increasing such Clients' exposure to assets, such that a Client's total assets may be greater than its capital. However, leverage will also magnify the volatility of changes in the value of a Client's portfolio. The effect of the use of leverage by Banyan in advising the Clients in a market that moves adversely to its investments could result in substantial losses to the Clients, which would be greater than if the Clients were not leveraged.

**Volatility Risk.** In advising the Clients, Banyan's investment program may involve the purchase and sale of relatively volatile securities and/or investments in volatile markets. Fluctuations or prolonged changes in the volatility of such securities and/or markets can adversely affect the value of investments held by the Clients.

**Diversification and Concentration.** Banyan may select investments that are concentrated in a limited number or types of securities. In addition, the Clients' portfolios may become significantly concentrated in securities related to a single or a limited number of issuers, industries, sectors, strategies, countries or geographic regions. This limited diversification may result in the concentration of risk, which, in turn, could expose the Clients to losses disproportionate to market movements in general if there are disproportionately greater adverse price movements in such securities.

**Hedging Transactions.** In advising the Clients, Banyan may utilize securities for risk management purposes in order to: (i) protect against possible changes in the market value of the Clients' investment portfolios resulting from fluctuations in the markets and changes in interest rates; (ii) protect the Clients' unrealized gains in the value of its investment portfolios; (iii) facilitate the sale of any securities; (iv) enhance or preserve returns, spreads or gains on any security in the Clients' portfolios; (v) hedge against a directional trade; (vi) hedge the interest rate, credit or currency exchange rate on any of the Clients' securities; (vii) protect against any increase in the price of any securities the Clients anticipate purchasing at a later date; or (viii) act for any other reason that Banyan deems appropriate. The Clients will not be required to hedge any particular risk in connection with a particular transaction or its portfolio generally. Banyan may be unable to anticipate the occurrence of a particular risk and, therefore, may be unable to cause a Client to attempt to hedge against it. While the Clients may enter into hedging transactions to seek to reduce risk, such transactions may result in a poorer overall performance for the Clients than if it had not engaged in any such hedging transaction. Moreover, the Clients' portfolios will always be exposed to certain risks that cannot be hedged.

**General Economic and Market Conditions.** The success of Banyan's activities will be affected by general economic and market conditions, such as interest rates, availability of credit, credit defaults, inflation rates, economic uncertainty, changes in laws (including laws relating to taxation of the Firm's investments), trade barriers, currency exchange controls, and national and international political circumstances (including wars, terrorist acts or security operations). These factors may affect the

level and volatility of the prices and the liquidity of the investments. Volatility or illiquidity could impair the client's profitability or result in losses. Banyan may maintain substantial trading positions that can be adversely affected by the level of volatility in the financial markets.

**Governmental Interventions.** Extreme volatility and illiquidity in markets has in the past led to, and may in the future lead to, extensive governmental interventions in equity, credit and currency markets. Generally, such interventions are intended to reduce volatility and precipitous drops in value. In certain cases, governments have intervened on an "emergency" basis, suddenly and substantially eliminating market participants' ability to continue to implement certain strategies or manage the risk of their outstanding positions. In addition, these interventions have typically been unclear in scope and application, resulting in uncertainty. It is impossible to predict when these restrictions will be imposed, what the interim or permanent restrictions will be and/or the effect of such restrictions on the Banyan's strategies.

**Derivative Instruments Generally.** Certain swaps, options and other derivative instruments may be subject to various types of risks, including market risk, liquidity risk, the risk of non-performance by the counterparty, including risks relating to the financial soundness and creditworthiness of the counterparty, legal risk and operations risk. The value of derivatives can also be materially impacted by changes in volatility, changes in dividend policies (including tax laws), time decay and changes in interest rates. Derivatives traded over-the-counter may not have an authoritative source of valuation and the models used to value such derivatives are subject to change.

**Derivatives Regulation.** Since the introduction of the Dodd-Frank Act in 2010, the CFTC has promulgated many final rules related to derivatives and such regulations may negatively affect the Client accounts. Parties that act as dealers in swaps, for example, are subject to extensive business conduct standards, additional "know your counterparty" obligations, recordkeeping, reporting, portfolio reconciliation, documentation standards and capital requirements and, when regulations are finalized, will become subject to margin requirements. Similar rules related to security-based swaps will soon be implemented. Requirements such as these will raise the costs of entering into derivative transactions, and these increased costs will likely be passed on to the clients of an investment adviser.

**Call Options.** The seller (writer) of a call option which is covered (i.e., the writer holds the underlying security) assumes the risk of a decline in the market price of the underlying security below the purchase price of the underlying security less the premium received, and gives up the opportunity for gain on the underlying security above the exercise price of the option. The seller of an uncovered call option assumes the risk of a theoretically unlimited increase in the market price of the underlying security above the exercise price of the option. The securities necessary to satisfy the exercise of an uncovered call option may be unavailable for purchase, except at much higher prices, thereby reducing or eliminating the value of the premium. Purchasing securities to cover the exercise of an uncovered call option can cause the price of the securities to increase, thereby exacerbating the loss. The buyer of a call option assumes the risk of losing its entire premium investment in the call option.

**Put Options.** The seller (writer) of a put option which is covered (i.e., the writer has a short position in the underlying security) assumes the risk of an increase in the market price of the underlying security above the sales price (in establishing the short position) of the underlying security plus the premium received, and gives up the opportunity for gain on the underlying security if the market price falls below the exercise price of the option. The seller of an uncovered put option assumes the risk of a decline in the market price of the underlying security below the exercise price of the option. The buyer of a put option assumes the risk of losing its entire investment in the put option.

**Index or Index Options.** The value of an index or index option fluctuates with changes in the market values of the securities included in the index. Because the value of an index or index option depends upon movements in the level of the index rather than the price of a particular security, whether the Clients will realize appreciation or depreciation from the purchase or writing of options on indices depends upon movements in the level of instrument prices in the security market generally or, in the case of certain indices, in an industry or market segment, rather than movements in the price of particular securities.

**Index Futures.** The price of index futures contracts may not correlate perfectly with the movement in the underlying index because of certain market distortions. First, all participants in the futures market are subject to margin deposit and maintenance requirements. Rather than meeting additional margin deposit requirements, participants may close futures contracts through offsetting transactions that would distort the normal relationship between the index and futures markets. Second, from the point of view of speculators, the deposit requirements in the futures market are less onerous than margin requirements in the securities market. Therefore, increased participation by speculators in the futures market also may cause price distortions. Successful use of index futures contracts by the Banyan on behalf of the Clients also is subject to Banyan's ability to correctly predict movements in the direction of the market.

**Futures Contracts.** The value of futures contracts depends upon the price of the instruments, such as commodities, underlying them. The prices of futures contracts are highly volatile, and price movements of futures contracts can be influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, as well as national and international political and economic events and policies. In addition, investments in futures contracts are also subject to the risk of the failure of any of the exchanges on which the Clients' positions trade or of its clearing houses or counterparties. Futures positions may be illiquid because certain commodity exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as "daily price fluctuation limits" or "daily limits." Under such daily limits, during a single trading day no trades may be executed at prices beyond the daily limits. Once the price of a particular futures contract has increased or decreased by an amount equal to the daily limit, positions in that contract can neither be taken nor liquidated unless traders are willing to effect trades at or within the limit. This could prevent Banyan on behalf of the Clients from promptly liquidating unfavorable positions and subject the Clients to substantial losses or

prevent it from entering into desired trades. Also, low margin or premiums normally required in such trading may provide a large amount of leverage, and a relatively small change in the price of a security or contract can produce a disproportionately larger profit or loss. In extraordinary circumstances, a futures exchange or the CFTC could suspend trading in a particular futures contract, or order liquidation or settlement of all open positions in such contract.

**Non-U.S. Futures Transactions.** Foreign futures transactions involve executing and clearing trades on a foreign exchange. This is the case even if the foreign exchange is formally "linked" to a domestic exchange, whereby a trade executed on one exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution, delivery, and clearing of transactions on such an exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country. Moreover, such laws or regulations will vary depending on the foreign country in which the transaction occurs. For these reasons, in the event that Banyan invests in foreign futures transactions, Clients may not be afforded certain of the protections which apply to domestic transactions, including the right to use domestic alternative dispute resolution procedures. In particular, funds received from customers to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. In addition, the price of any foreign futures or option contract and, therefore, the potential profit and loss resulting therefrom, may be affected by any fluctuation in the foreign exchange rate between the time the order is placed and the time the foreign futures contract is liquidated or the time the foreign option contract is liquidated or exercised.

**Forward Contracts.** Banyan on behalf of the Clients may enter into forward contracts and options thereon, including non-deliverable forwards, which are currently not traded through clearinghouses, although this is expected to change. If Banyan is to engage in forward trading, the Clients will be subject to the risk of the failure of, or the inability or refusal to perform with respect to its forward contracts by, the principals with which the Firm trades. Client assets on deposit with such principals will also generally not be protected by the same segregation requirements imposed on certain regulated brokers in respect of customer funds on deposit with them. Banyan may order trades for the Clients in such markets through agents. Accordingly, the insolvency or bankruptcy of such parties could also subject the clients to the risk of loss.

**Exchange-Traded Funds.** Exchange-Traded Funds ("**ETFs**") are publicly traded unit investment trusts, open-end funds or depository receipts that seek to track the performance and dividend yield of specific indexes or companies in related industries. These indexes may be either broad-based, sector, or international. However, ETF shareholders are generally subject to the same risk as holders of the underlying securities they are designed to track. ETFs are also subject to certain additional risks, including, without limitation, the risk that their prices may not correlate perfectly with changes in the prices of the underlying securities they are designed to track, and the risk of trading in an ETF halting due to market conditions or other reasons, based on the policies of the exchange upon which the ETF trades. Generally, each shareholder of an ETF bears a pro rata portion of the ETF's



expenses, including management fees. Accordingly, in addition to bearing their proportionate share of the Firm's advisory fee, Clients may also indirectly bear similar expenses of an ETF.

**Initial Public Offerings.** Investments in initial public offerings (or shortly thereafter) may involve higher risks than investments issued in secondary public offerings or purchases on a secondary market due to a variety of factors, including, without limitation, the limited number of shares available for trading, unseasoned trading, inability to hedge, lack of investor knowledge of the issuer and limited operating history of the issuer. In addition, some companies in initial public offerings are involved in relatively new industries or lines of business, which may not be widely understood by investors. Some of these companies may be undercapitalized or regarded as developmental stage companies, without revenues or operating income, or the near-term prospects of achieving them. These factors may contribute to substantial price volatility for such securities and, thus, for the value of a portfolio.

**New Issues.** Investments in newly issued securities, including equity, debt, preferred securities and convertible securities have many of the same risks associated with initial public offerings such as unseasoned trading, unknown market reaction to the newly issued securities, inability to hedge and an often small window to analyze the terms and conditions of such securities. Further, the price volatility of newly issued securities often tends to be high, and the Clients may receive a materially higher or lower allocation of such securities than expected.

## **Item 9: Disciplinary Information**

---

Not applicable. Neither Banyan nor any of its management personnel are subject to or have in the past been subject to any criminal or civil action in any domestic or foreign court, and neither Banyan nor any of its management personnel have been subject to any administrative proceedings before the SEC or any other state, federal or foreign financial regulatory authority.

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

---

Mr. Benedict is the sole owner of Banyan. We have no other financial industry affiliations.

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

---

We have a Code of Ethics (our "**Code**"), adopted pursuant to rule 204A-1 under the Investment Advisers Act of 1940 (the "**Advisers Act**"), that establishes various procedures with respect to investment transactions by accounts in which our "access persons" (i.e., persons with knowledge of our investment management activities on behalf of our clients) have a beneficial interest or accounts over which an access person has investment discretion. We will provide our Code to clients upon request.

Our Code requires our access persons, including members of their immediate households, to obtain written pre-approval from our chief compliance office (our "**CCO**") prior to executing a personal transaction in certain securities or other instrument in which we may trade on behalf of our clients. Our code prohibits our access persons from trading in any futures or commodities that we may trade for the Clients. Our Code also requires all of our access persons to report all securities holdings and personal transactions to our CCO (subject to exceptions permitted by rule 204A-1), who reviews and monitors the reported holdings and transactions to assure compliance with our Code's requirements. We require all of our access persons to provide duplicate copies of brokerage statements to our CCO.

In addition, our access persons may not acquire securities for their own account in an initial public offering or other limited offering without the approval of our CCO. Our access persons must also obtain pre-approval from either our CCO or Mr. Benedict before engaging in any outside business activities. We do not, and we do not permit our access persons to, engage in principal transactions with our clients.

## **Item 12: Brokerage Practices**

---

### ***Best Execution***

We make investment decisions and arrange for the placement of buy and sell orders and the execution of portfolio transactions for our Clients. Those transactions generate brokerage commissions and other charges, all of which are borne by our Clients, not us. The Clients bear the brokerage commissions and other charges for our engagement in transactions on its behalf at rates we negotiate for such Client accounts. We have complete discretion in deciding what brokers and dealers to use and, subject to such negotiations with Clients, in negotiating the rates of compensation paid to those brokers and dealers. In arranging for the execution of Client portfolio transactions, we seek to obtain best execution at favorable prices. We consider in our selection of brokers and dealers such factors as the price of the security, the rate of the commission, the size and difficulty of the order, and the reliability, integrity, financial condition, general execution and operational capabilities of competing brokers and dealers. We do not necessarily seek the lowest available commission rate when we believe that a broker or dealer charging a higher commission rate would offer greater reliability or provide better price or execution.

### ***Soft Dollars***

In trading on behalf of our Clients we may cause the Clients that agree to do so, to pay commissions to a broker in an amount greater than the amount that that or another broker might have charged to execute the same transaction in order to generate "soft dollars." We use soft dollars to pay expenses for research products and ancillary brokerage services that are intended to fall within the safe harbor for the use of soft dollars created by Section 28(e) of the Securities Exchange Act of 1934 ("**28(e) expenses**").



In the case of 28(e) expenses, we may cause the Clients to pay a broker higher commissions if we determine in good faith that the amount of the higher commissions so charged is reasonable in relation to the value of the brokerage and research services provided by the broker in question, viewed in terms of both that particular transaction or our overall management of our clients' accounts. In that connection we may enter into agreements with the broker in question to obtain research services (including analytic software) from third parties that are paid for by that broker using soft dollars.

In addition to using brokers as agents and paying commissions, we may buy or sell securities on behalf of our Clients directly from or to dealers acting as principal at prices that include mark-ups or markdowns, and may buy securities from underwriters or dealers in public offerings at prices that include compensation to the underwriters and dealers. Each year, we may consider the amount and nature of research services provided by brokers as well as the extent to which such services are relied upon, and attempt to allocate a portion of our brokerage business on the basis of that consideration. Brokers also sometimes suggest a level of business they would like to receive in return for the various services they provide. Actual brokerage business received by any broker may be less than the suggested allocations, but can (and often will) exceed the suggestions, because total brokerage will be allocated on the basis of all the considerations described above. We do not exclude a broker from receiving business because it has not been identified as providing research or other soft dollar services.

We may use the investment information and brokerage services that we receive from brokers in servicing our Clients and reserve the right to utilize those services in a manner that does not necessarily benefit any particular account. We note in that connection, however, that we manage all of our Clients' accounts pro rata using the same investment strategy. We believe that such an allocation of brokerage business helps us to obtain research and execution capabilities and provides other benefits to our Clients.

Our investment strategy emphasizes active management. Consequently, the portfolio turnover and brokerage commission expenses that we incur on our clients' behalves may exceed those of other investment entities of comparable size.

### **Allocation**

Because we seek to manage all of our Clients' accounts on a pro rata basis, we almost always seek to purchase or sell the same investments on behalf of all Clients at the same time. On occasion, however, due to the size of the trade we may not be able to allocate investments on an altogether pro rata basis. If we are unable to do so, the performance of a Client's account may vary from the performance of other Client accounts, with a particular possibility that the performance of a Client account may vary from the performance of another Client account(s).

## **Item 13: Review of Accounts**

---

We engage in active management and frequent transactions on behalf of our Clients and, accordingly, review our transactions on a daily basis. Our Clients generally have direct access to their account information through Internet links to their custodian of the accounts and receive additional reports from us in the manner specified in their respective investment management agreements.

---

**Item 14: Client Referrals and Other Compensation**

---

Other than the products and services that Banyan receives from broker-dealers (described above under Item 12), Banyan does not currently and does not expect to receive any economic benefits from third parties in connection with the provision of investment advice to Clients. Additionally, other than considerations regarding capital introduction programs (described above under Item 12), Banyan does not currently (although Banyan reserves the right in the future) compensate any person for Client referrals.

---

**Item 15: Custody**

---

Banyan does not deem itself to have or accept custody of its current Client accounts.

---

**Item 16: Investment Discretion**

---

We obtain discretionary trading authority over all assets we manage pursuant to powers of attorney granted by our investment management agreements.

---

**Item 17: Voting Client Securities**

---

While many of the instruments in which we trade do not confer voting rights on any matter, we do trade in common stocks and other securities that typically have voting rights. However, because of the short-term nature of our usual trading strategy, we seldom hold such a security on the record date when a voting right accrues. Accordingly, while we occasionally may have voting rights with respect to Client securities, historically we have not voted proxies. If we do have such a right and determine to exercise it, we will analyze the issues presented and vote in what we consider to be the best interests of our Clients. We do not have affiliations with any issuer of a security in which we invest on behalf of Clients and believe we do not have conflicts of interest in making voting decisions. We do not solicit or accept voting recommendations from our Clients. We will provide Clients with a copy of our proxy voting policies and procedures and information concerning how we have voted securities (if we have) upon request.

**Item 18: Financial Information**

---

We are not required to provide a balance sheet in response to this item and are not subject to any financial condition that is reasonably likely to impair our ability to meet our financial obligations to our Clients.