

**DISCLOSURE DOCUMENT OF**



**A NORTH CAROLINA LIMITED LIABILITY COMPANY REGISTERED WITH  
THE COMMODITY FUTURES TRADING COMMISSION AS A  
COMMODITY TRADING ADVISOR  
COMMODITY POOL OPERATOR**

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**THIS POOL HAS NOT COMMENCED TRADING AND DOES NOT HAVE ANY PERFORMANCE HISTORY  
THE COMMODITY FUTURES TRADING COMMISSION HAS NOT PASSED UPON THE MERITS OF  
PARTICIPATING IN THIS TRADING PROGRAM NOR HAS THE COMMISSION PASSED ON  
THE ADEQUACY OR ACCURACY OF THIS DISCLOSURE DOCUMENT.**

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**Date of Disclosure Document: December 27, 2017**

**THE DELIVERY OF THIS DISCLOSURE DOCUMENT AT ANY TIME DOES NOT IMPLY THAT THE  
INFORMATION CONTAINED HEREIN IS CORRECT AS OF ANY TIME SUBSEQUENT TO THE DATE OF  
THIS DISCLOSURE DOCUMENT.**

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**Banyan Capital Management, L.L.C.**

## **RISK DISCLOSURE STATEMENT**

**THE RISK OF LOSS IN TRADING COMMODITY INTERESTS CAN BE SUBSTANTIAL. YOU SHOULD THEREFORE CAREFULLY CONSIDER WHETHER SUCH TRADING IS SUITABLE FOR YOU IN LIGHT OF YOUR FINANCIAL CONDITION. IN CONSIDERING WHETHER TO TRADE OR TO AUTHORIZE SOMEONE ELSE TO TRADE FOR YOU, YOU SHOULD BE AWARE OF THE FOLLOWING:**

**IF YOU PURCHASE A COMMODITY OPTION, YOU MAY SUSTAIN A TOTAL LOSS OF THE PREMIUM AND OF ALL TRANSACTION COSTS.**

**IF YOU PURCHASE OR SELL A COMMODITY FUTURES CONTRACT OR SELL A COMMODITY OPTION OR ENGAGE IN OFF-EXCHANGE FOREIGN CURRENCY TRADING YOU MAY SUSTAIN A TOTAL LOSS OF THE INITIAL MARGIN FUNDS OR SECURITY DEPOSIT AND ANY ADDITIONAL FUNDS THAT YOU DEPOSIT WITH YOUR BROKER TO ESTABLISH OR MAINTAIN YOUR POSITION. IF THE MARKET MOVES AGAINST YOUR POSITION, YOU MAY BE CALLED UPON BY YOUR BROKER TO DEPOSIT A SUBSTANTIAL AMOUNT OF ADDITIONAL MARGIN FUNDS, ON SHORT NOTICE, IN ORDER TO MAINTAIN YOUR POSITION. IF YOU DO NOT PROVIDE THE REQUESTED FUNDS WITHIN THE PRESCRIBED TIME, YOUR POSITION MAY BE LIQUIDATED AT A LOSS, AND YOU WILL BE LIABLE FOR ANY RESULTING DEFICIT IN YOUR ACCOUNT.**

**UNDER CERTAIN MARKET CONDITIONS, YOU MAY FIND IT DIFFICULT OR IMPOSSIBLE TO LIQUIDATE A POSITION. THIS CAN OCCUR FOR EXAMPLE WHEN THE MARKET MAKES A "LIMIT MOVE."**

**THE PLACEMENT OF CONTINGENT ORDERS BY YOU OR YOUR TRADING ADVISOR, SUCH AS A "STOP-LOSS" OR "STOP-LIMIT" ORDER, WILL NOT NECESSARILY LIMIT YOUR LOSSES TO THE INTENDED AMOUNTS, SINCE MARKET CONDITIONS MAY MAKE IT IMPOSSIBLE TO EXECUTE SUCH ORDERS.**

**A "SPREAD" POSITION MAY NOT BE LESS RISKY THAN A SIMPLE "LONG" OR "SHORT" POSITION.**

**THE HIGH DEGREE OF LEVERAGE THAT IS OFTEN OBTAINABLE IN COMMODITY INTEREST TRADING CAN WORK AGAINST YOU AS WELL AS FOR YOU. THE USE OF LEVERAGE CAN LEAD TO LARGE LOSSES AS WELL AS GAINS.**

**IN SOME CASES, MANAGED COMMODITY ACCOUNTS ARE SUBJECT TO SUBSTANTIAL CHARGES FOR MANAGEMENT AND ADVISORY FEES. IT MAY BE NECESSARY FOR THOSE ACCOUNTS THAT ARE SUBJECT TO THESE CHARGES TO MAKE SUBSTANTIAL TRADING PROFITS TO AVOID DEPLETION OR EXHAUSTION OF THEIR ASSETS. THIS DISCLOSURE DOCUMENT CONTAINS AT PAGES 8 THROUGH 9 A COMPLETE DESCRIPTION OF EACH FEE TO BE CHARGED TO YOUR ACCOUNT BY THE COMMODITY TRADING ADVISOR.**

**THIS BRIEF STATEMENT CANNOT DISCLOSE ALL OF THE RISKS AND OTHER SIGNIFICANT ASPECTS OF THE COMMODITY INTEREST MARKETS. YOU SHOULD THEREFORE CAREFULLY STUDY THIS DISCLOSURE DOCUMENT AND COMMODITY INTEREST TRADING BEFORE YOU TRADE, INCLUDING THE DESCRIPTION OF THE PRINCIPAL RISK FACTORS OF THIS INVESTMENT, AT PAGES 3 THROUGH 5.**

**THIS COMMODITY TRADING ADVISOR IS PROHIBITED BY LAW FROM ACCEPTING FUNDS IN THE TRADING ADVISOR'S NAME FROM A CLIENT FOR TRADING COMMODITY INTERESTS. YOU MUST PLACE ALL FUNDS FOR TRADING IN THIS TRADING PROGRAM DIRECTLY WITH A FUTURES COMMISSION MERCHANT OR RETAIL FOREIGN EXCHANGE DEALER, AS APPLICABLE.**

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## **INTRODUCTION**

Banyan Capital Management, LLC (the “Advisor” or “Banyan”), a North Carolina limited liability company, became registered with the Commodity Futures Trading Commission (“CFTC”) as a Commodity Trading Advisor (“CTA”) on November 11, 2017. Banyan became a member of the National Futures Association (“NFA”) on November 11, 2017. The Advisor’s principal office is located at 3304 Banyan Way Waxhaw, North Carolina 28173 +1 (704) 517-7845. Books and records of the Advisor are maintained at this address.

The Advisor is offering Clients an opportunity to participate in a managed account programs, which seeks capital appreciation of Clients’ assets through speculative trading in commodity futures and options on commodity futures. There is no representation being made that the trading program will be successful in achieving this goal. The program is fully discussed in “Trading Methodology and Risk Management”.

## **MANAGEMENT**

Robert Warren Norris II, is a graduate student at Harvard University with a concentration in Accounting and Finance. He is a member of the Institute of Management Accountants Honor Society and Associated person of the Chartered Financial Analyst.

To help pay for school for the previous five years Mr., Norris has held odd jobs to support himself.

In 2012 Mr. Norris began his educational pursuits at Harvard University. For the preceding two years academics was the only pursuit and he lived off his personal savings. In 2014, his personal savings ran low and acquired a job at The Sevens Ale House on Beacon Hill, Boston, MA. Additionally, in 2015 he added a second job at Charles Street Hardware to supplement night shifts for a day job due to a change in his academic schedule. Intermittently, he held an ancillary amount of work hours at Beacon Hill Wine & Spirits to further supplement his income.

During the five years preceding the date of this document there have been no administrative, civil or criminal actions against Banyan or its principals (either pending, on appeal or concluded) that would be material to an investor in making a decision to open an account managed by the Advisor.

## **PRINCIPAL RISK FACTORS**

In addition to the risks inherent in trading commodity interests pursuant to instructions provided by the Advisor (see "TRADING METHODOLOGY AND RISK MANAGEMENT"), there exist additional risk factors, including those described below, in connection with an investor participating in a managed account program. Prospective clients should consider all of the risk factors described below and elsewhere in this Disclosure Document before participating in any of the programs.

**Futures and Options Trading Is Speculative and Volatile.** Futures prices are highly volatile. Price movements for commodity interests are influenced by, among other things: changing supply and demand relationships; weather, agricultural, trade, fiscal, monetary, and exchange control programs and policies of governments; United States and foreign political and economic events and policies; changes in national and international interest rates and rates of inflation; currency devaluations and revaluations; and emotions of the marketplace. None of these factors can be controlled by the Advisor and no assurance can be given that the Advisor's trading actions will result in profitable trades for a Client or that a Client will not incur substantial losses.

**Stop Loss Measures.** The implementation of stop loss measures may not necessarily limit losses to the intended levels since market conditions may make it impossible to execute orders at the determined levels and therefore successfully contain losses.

**Futures and Options Trading Is Highly Leveraged.** A futures position can be established with margin that is small relative to the total value of the commodity interest contract purchased or sold. This can permit an extremely high degree of leverage. Accordingly, a relatively small price movement in a contract may result in immediate and substantial losses to the investor. Thus, like other leveraged investments, any trade may result in losses in excess of the amount invested. When the market value of a particular open position changes to a point where the margin on deposit in a participating customer's account does not satisfy the applicable maintenance margin requirement imposed by the customer's FCM, the customer, and not the Advisor, will receive a margin call from the FCM. If the customer does not satisfy the margin call within a reasonable time, the FCM will close out the customer's position.

**Futures and Options Markets May Be Illiquid.** The markets may become illiquid due, for example, to daily price fluctuation limits, making it impossible for a trader to close out a position against which the market is moving. Conversely, speculative position limits or other market constraints may prevent an Advisor from acquiring positions otherwise indicated by its strategy, eliminating profit opportunities or making it impossible to protect against further losses. This combination implies a high degree of risk. Futures trading is a zero-sum, risk transfer activity in which, by definition, for every gain there is an offsetting loss rather than a mutual participation over time in economic growth. An account's success depends entirely on the Advisor's ability to predict or follow future price movements or otherwise implement its trading strategies. There can be no assurances of the Advisor's success in doing so.

**Trading of Commodity Options Involves Certain Risks.** Options on certain futures contracts and options on certain physical commodities have been approved by the CFTC for trading on United

States exchanges. Each such option is a right, purchased for a certain price to either buy or sell the underlying futures contract or physical commodity during a certain period of time for a fixed price. The Advisor may engage in the trading of options for the account of a Client.

Although successful options trading requires many of the same skills, as does successful futures contract trading, the risks involved are somewhat different. For example, if the Advisor, on behalf of a participating customer buys an option (either to sell or buy a futures contract or commodity), the customer will be required to pay a "premium" representing the market value of the option. Unless the price of the futures contract or commodity underlying the option changes and it becomes profitable to exercise or offset the option before it expires, the Client may lose the entire amount of the premium. Conversely, if the Advisor, on behalf of a Client, sells an option (either to sell or buy a futures contract or commodity), the Client will be credited with the premium but will have to deposit margin with the customer's FCM due to the customer's contingent liability to deliver or accept the futures contract or commodity underlying the option in the event the option is exercised. The writing of an option involves the risk of losing the entire investment or substantially more than the entire investment, thereby causing significant or unlimited losses to the client. The ability to trade in or exercise options may be restricted in the event that trading in the underlying futures contract or commodity becomes restricted. Such trading may involve additional risks because the Advisor has limited experience trading commodity options.

**A Client's FCM May Fail.** Under CFTC regulations, FCMs are required to maintain customers' assets in a segregated account. If a Client's FCM fails to do so, the Client may be subject to a risk of loss of his funds on deposit with his FCM in the event of its bankruptcy. In addition, under certain circumstances, such as the inability of another customer of the FCM or the FCM itself to satisfy substantial deficiencies in such other customer's account, a participating customer may be subject to a risk of loss of his funds on deposit with his FCM, even if such funds are properly segregated. In the case of any such bankruptcy or customer loss, a Client might recover, even in respect of property specifically traceable to the customer, it is possible that none of a client's property may be available for distribution, or only a pro rata share of all property available for distribution to all of the FCM's customers.

**Substantial Fees and Expenses.** A Client is subject to substantial brokerage commissions and other transaction costs as well as management and incentive fees. Accordingly, a Client's account will have to earn substantial trading profits to avoid depletion of the Client's funds due to such commissions, costs, and fees.

The Client, and not the Advisor, is directly responsible for paying to the Client's FCM or, as appropriate, all margins, option premiums, brokerage commissions and fees, and other transaction costs and expenses incurred in connection with transactions effected for the customer's account by the Advisor. The Advisor considers the interests of its Clients paramount and manages all accounts to further the interests of customers. Nevertheless, no assurance can be given by the Advisor as to any minimum or maximum number of transactions which will be entered into for a Client's account during any period for which the account is managed by the Advisor.

A Client is responsible for bearing any and all expenses, losses, and fees incurred as a result of maintaining and having the Advisor trade the Client's account. In the Management Agreement (a copy of which is attached), a Client agrees to indemnify and hold harmless the Advisor and its employees, affiliates, and agents in this regard. See "FEES AND EXPENSES."

**Limited Portfolio May Result in Increased Volatility.** Trading a limited portfolio may result in Clients experiencing greater performance volatility and greater risk of loss than would be experienced by a more diversified portfolio.

**No Intrinsic Value to Investments.** The program offered should be considered on a stand-alone basis only, not as a beneficial diversification to a portfolio, unless it trades successfully. Clients will not acquire assets with intrinsic value. The program offered hereby is entirely speculative and is not based on the appreciation in value of any asset.

**Possible Regulatory Changes.** In the current environment, prospective Clients must recognize the possibility of future regulatory changes altering, perhaps to a material extent, the nature of an investment in the program offered hereby. For example, certain exchanges could raise significantly the margin requirements applicable in connection with Banyan Capital option writing. Accordingly, Banyan Capital would not be able to write as many options, based on a particular level of Net Assets, as was possible previously. Reduced position levels may lead to lower profit potential.

**Tax liability.** Clients should satisfy themselves as to the income tax and other tax consequences of an investment in a managed account program with specific reference to their own tax situation by obtaining advice from their own tax counsel before participating in a managed account program.

**Counter Party Credit Risks.** A Futures Commission Merchant (“FCM”) and Introducing Broker (“IB”), or a foreign entity dealing with foreign futures and options, may experience financial difficulties that may result in the inability or refusal to perform all of its obligations – or even failure. This can lead to a partial payment or non-payment of funds due to the clients; in some cases it may be impossible to collect sums owed, particularly from foreign entities.

**The foregoing list of Principal Risk Factors** does not purport to be a complete explanation of the risks involved in option trading. Potential investors should read the entire disclosure document before deciding whether to invest in the program.

## **TRADING METHODOLOGY AND RISK MANAGEMENT**

Banyan Capital Management LLC currently offers a Macro Driven Volatility Mean Reverting Strategy. The trading strategies utilized by the Advisor are proprietary and confidential. The following descriptions are of general necessity and are not intended to be all-inclusive.

### **Recommended Commitment**

The Advisor recommends that Clients open accounts with a minimum of \$50,000 for the Long Volatility Strategy in order to ensure that Clients will have sufficient equity in their accounts to fully participate in the Program. However, the Advisor reserves the right to waive this minimum funding requirement. The Advisor may also accept partially funded or notional accounts.



The Advisor believes that a long-term commitment to its strategy provides the best opportunity to experience profitable trading. A client should be willing to commit capital to the strategy for at least one year for a reasonable chance to ascertain the level of return targeted by the Program.

### **Long Volatility Strategy**

#### **Trading Methodology**

Macroeconomic Event Driven Volatility Mean Reverting Strategy.

#### **Global Macro Quantitative & Contrarian Trend Following System**

Applying a systematic blend of diversified investment approaches across a wide range of global sectors, markets, and time frames, Banyan Capital Management LLC is designed to consistently capture an array of market inefficiencies and deliver to investors a regular system of alpha that has a low correlation to traditional investment strategies.

Banyan Capital Management LLC does not make fundamental market calls but rather identifies price trends, patterns and other anomalies that we believe offer a high statistical likelihood of delivering consistent investment profits over time.

Through a process of measuring a mapping market data, Banyan Capital Management LLC offers investors exposure to a wide range of long and short opportunities in equities, fixed income, commodities and currencies which are agonizing to economic downturns and other factors that often hinder traditional investment approaches. The Global Macro Quantitative & Contrarian Trend Following System is designed to participate in a range of market price inefficiencies and anomalies while preserving capital during times when such investment opportunities are not present.

#### **Premium Capture System**

Within this program, DCM will also write covered and/or uncovered options to capture premiums to increase the potential profits. (Option positions may also increase the risk of market exposure from time to time.) Each month puts and calls will be written – the goal being to capture the premiums either by letting the written options expire or by purchasing them back at lower price. The Volatility Index (also known as the VIX) will be used to determine the number of options to sell and what strike prices to be utilized. Strict risk controls will be in place to limit the downside risks and achieve a desirable risk/reward ratio.

#### **Use of Contrarian Trend-Following Analysis**

The trend following portion of the program may utilize short-term, medium-term or long-term positions. The program may trade both the long and short sides of the market. In its evaluation of the markets, DCM employs a trend-following strategy. One method of successful speculative commodity trading depends upon establishing a position and then maintaining the position while the market moves in a favorable direction. The trader then seeks to exit the particular market and may establish reverse positions when the initial trend either does not materialize or reverses.

Trading will not typically be successful if the particular markets are not moving in any direction and instead, trading sideways for more than a month. Because of the nature of the commodities markets, there will be frequent false trends.

A pure trend-following trading system, method, strategy or model will never direct market entry or exit at the most favorable prices. Rather, this type of trading method seeks to close out losing positions and to hold portions of profitable positions for as long as the trader determines that the particular market trend continues to

exist and liquidates when the trend reverses. As a result, the number of losing transactions can be expected to exceed the number of profitable transactions. However, if the approach is successful, these losses should be relatively smaller and should be more than offset by a few larger gains.

### **Use of Stock Index Options**

The option trading for this program is based primarily on writing out-of-the-money call and put options with the expectation that the options will either be bought back at a lower price or expire. In order to efficiently control risk, based on a proprietary risk control system developed by Mr. Hu, the trader will roll out of positions either vertically (to a further month) or diagonally (further out-of-the-money), as determined by current market conditions. From time to time, options may also be rolled closer to the underlying futures price if the perceived risk/reward is favorable. Technical analysis, chart reading and pattern recognition are used to determine which options to write for each monthly cycle. Occasionally, options may be purchased to either hedge positions or speculate on substantial movement in the underlying stock index. The performance for the Enhanced S&P Program (ESP) is set forth on page 14 for client accounts.

### **Form of Margin Deposits**

A customer participating in the Managed Account Program must deposit trading funds directly in a commodity trading account with an FCM.

If Treasury bills are purchased for a participating customer's account, such Treasury bills are utilized as initial margin for commodity interest transactions, although the FCM generally credits a customer's margin requirement with only 90% of the face value thereof. All interest income earned on such Treasury bills is credited to the participating customer's account and Diamond Capital will not receive an incentive fee on such interest income.

### **Banyan Capital Management's trading strategies are speculative in nature.**

"Hedgers" and "Speculators" are the two broad classifications of persons who trade in commodity futures and options. The commodities markets enable the hedger to shift risk of price volatility to the speculator. The usual objective of the hedger is to protect the profit expected from farming, merchandising or processing operations, rather than to profit from futures trading. Unlike the hedger, the speculator generally does not expect to deliver or receive any physical commodity, electing instead to offset a futures or option position and realizing a profit or loss based on the difference between the price at which a position was acquired and that at which it was later offset. The speculator risks capital with the intention of making profits from fluctuations in futures or option prices. Speculators rarely take delivery of physical commodities but rather close out positions by entering into offsetting purchases or sales of futures contracts or options.

### **Trading Strategies and Systems**

The trading strategies and systems utilized by Banyan Capital Management may be revised from time to time as a result of ongoing research and development, which seeks to devise new trading strategies and systems as well as test methods currently employed. The trading strategies and systems used by Banyan in the future may differ significantly from those presently used due to the changes which may result from this research. Clients will not be informed of these changes as they may occur.

## **FEES AND EXPENSES**

The Advisor charges clients a quarterly incentive fee and monthly management fee that is billed quarterly. Once the fees are earned, the Advisor will retain the fees regardless of the account's performance subsequent to the period for which the fees are earned. Because Banyan may structure each account (including the applicable fees) to meet specific Client needs, the following description of Banyan's fees represents the fees that may be charged to an account under most circumstances. Management and/or incentive fees may be waived or adjusted at the sole discretion of the Advisor not to exceed a 30% incentive fee or a 2% management fee.

### **Incentive Fee**

The Advisor charges a quarterly incentive fee of 20% of New Net Trading Profits. The New Net Trading Profits will not include accrued earned interest (if any). A participating customer may pay an initial incentive fee calculated for a period that is less than three months in the case of a new account opened during the quarter or an account closed before the end of the quarter.

New Net Trading Profits are computed using the formula: gross realized profit and loss during the period plus the change in net unrealized profit and loss on open positions as of the end of the period, minus all brokerage commissions and transaction fees, minus management fees accrued or paid during the period and cumulative net loss, if any, carried over from other periods. The carryover of previous loss makes certain that incentive fees are paid only on the new cumulative increases in the net gains of an account. It should be noted that the full loss is not carried over the next quarter in an instance where there has been a partial withdrawal of funds. In this case, the portion of the loss attributable to the withdrawn amount is first subtracted from the carryover loss.

In addition, if an account does not have New Net Trading Profits in a given quarter, no incentive fee will be due to Banyan unless and until the account experiences New Net Trading Profits in a subsequent quarter. The amount of the incentive fee due to Banyan, if any, will be determined independently with respect to each quarter, and the amount of any such fee paid will not be affected by subsequent losses experienced in a participating customer's account.

Incentive Fees will be accrued monthly, subject to reversal in the event of trading losses prior to the end of a calendar quarter. In the event of a withdrawal other than as of a quarter-end, any accrued Incentive Fees with respect to such redeemed assets will be paid to Banyan as if such date of withdrawal were a quarter-end and will be billed immediately.

### **Management Fee**

The Advisor charges a monthly management fee of 1/6% (2% annually) of the Net Asset Value of the client's account at the end of each month. This fee is billed quarterly. The management fee will be calculated prior to any incentive fee being subtracted from the account. If a client withdraws from the Program on a date other than at the end of a quarter, management fees will be calculated and billed as if such termination were the end of the month and pro-rated to the number of months actually traded in that quarter and will be billed immediately.

The Advisor may accept partially funded, or notional funded accounts. The management fees charged to the account will be based on the nominal value of the account. The nominal value of the account under management is the initial amount of funds allocated to trading, plus or minus cumulative profits or losses, plus accrued interest, plus additional deposits, minus withdrawals, and minus all management and incentive fees paid. Cumulative profits or losses include both realized and unrealized profits or losses. For example, if a client is charged a 2% management fee on a \$100,000 account traded as a \$200,000 account, the account will be charged \$4,000, or 4% of the actual account size.

The term "net asset value" of a Client's account means the net assets in and committed to the account (that is total assets less total liabilities, including interest income and unrealized profits and losses on open commodity interest positions).

### **Third Party Fees**

The Advisor may cause futures or options transactions to be executed by an FCM other than the one at which the accounts are carried. Clients agree to pay any additional charges on such trades for the transfer of the futures or options positions to the carrying brokerage firm.

Banyan Capital Management may at times pay a portion of collected fees to third parties, such as Introducing Brokers (IBs), properly registered with the NFA, for referral services.

### **Miscellaneous**

Management and Incentive fees, if any, are due immediately upon termination of a client account prior to the end of the quarter. A participating customer is not entitled to a refund of any management fees and/or incentive fees paid to the date of such customer's withdrawal from the Managed Account Program.

Following the end of a calendar quarter, an invoice will be sent to the FCM carrying the participating customer's account to collect the management fee and incentive fee, if any, that are due and owing to the Advisor. By signing the Fee Payment Authorization, participating clients authorize their respective FCM to pay the Advisor management and incentive fees from the customer's account upon the receipt of a bill for such fees from the Advisor. The Advisor should be contacted as soon as possible upon finding any errors.

### **SPECIAL DISCLOSURE FOR NOTIONALLY-FUNDED ACCOUNTS**

Some accounts managed by the Advisor may specify a Nominal Account size that exceeds the amount of Actual Funds and are therefore referred to as "Notional Fund Accounts". The amount by which the Nominal Account size exceeds the amount of Actual Funds on deposit in an account is deemed "Notional Funds". Be apprised that partial funding increases leverage and the increased leverage will magnify both profits and losses.

You should request your commodity trading advisor to advise you of the amount of cash or other assets (actual funds) which should be deposited to the Advisor's trading program for your account to be considered "fully-funded". This is the amount upon which the commodity trading advisor will determine the number of contracts traded in your account and should be an amount sufficient to make it unlikely that any further cash deposits would be required from you over the course of your participation in the commodity trading advisor's program.

You are reminded that the account size you have agreed to in writing (the “nominal” or “notional” account size) is not the maximum possible loss that your account may experience. You should consult the account statements received from your Futures Commission Merchant in order to determine the actual activity in your account, including profits, losses and current cash equity balance. To the extent that the equity in your account is at any time less than the designated nominal account size you should be aware of the following:

1. Although your gains and losses, measured in dollars will be the same, they will be greater when it expresses a percentage of account equity.
2. You may receive more frequent and larger margin calls.
3. You will pay higher advisory fees and brokerage commissions, as measured by the percentage of such fees and commissions in relation to assets actually deposited in the account, than a client’s account which is fully funded. See page 8 for more information.
4. Once the initial nominal account size has been established by the client in writing, it will continue to be increased/decreased by cash additions, cash withdrawals, and net performance. A change in the designated nominal account size (trading level), which is not the result of accrued trading profits or losses, should be communicated to the advisor in writing. A client may specifically request in writing that cash additions, cash withdrawals, and net performance not impact the nominal account size.
5. The following table may be used to convert the actual rates of return (“ROR”) to the corresponding ROR’s for particular funding levels.

Actual ROR	Rates of Return based on various funding levels		
20%	20%	26.67%	40%
10%	10%	13.33%	20%
5%	5%	6.67%	10%
0%	0%	0%	0%
-5%	-5%	-6.67%	-10%
-10%	-10%	-13.33%	-20%
-20%	-20%	-26.67%	-40%
% Level of Funding 100%	75%	50%	

### **FUTURES COMMISSION MERCHANT AND INTRODUCING BROKER**

Clients may select the futures commission merchant (“FCM”) at which to maintain their accounts and an introducing broker (“IB”) through which they will introduce their accounts. Banyan Capital Management reserves the right to disapprove any FCM or IB chosen by the client. Such disapproval will generally be based on the past performance, clearing capabilities, product limitations and commission structure of the FCM or IB.

The Advisor recommends that each prospective client familiarize themselves with the services, experience, and integrity of any futures commission merchant or introducing broker with which a client chooses to do business.

In an effort to ensure efficient trade execution and maintain equity between various accounts, Banyan Capital Management may use a “give-up” arrangement in which trades are executed through a FCM of Banyan’s choice, and then cleared by the client’s FCM. This arrangement will typically result in the client paying a higher round-turn commission in the form of an added give-up fee paid to the executing FCM. Although most of the execution fees are very standard with small variations, approximately \$0.60 to \$1.00 per contract, DCM will try to negotiate the best rate for its clients. The client generally will be provided with a statement from the clearing FCM disclosing the amount of brokerage commissions and fees charged to the account.

### **CONFLICTS OF INTEREST**

Prospective clients should be aware that these, and other, potential conflicts of interest are frequently inherent to a CTA. The Advisor, however, understands its obligation to treat each client with fairness while considering the client's best interests. All efforts will be made to assure fair and equitable treatment of all accounts.

The Advisor intends to continue to actively solicit and manage other customer accounts. In conducting such activities, the Advisor may have conflicts of interest in allocating management time and administrative functions.

The trading methods and strategies utilized in managing the accounts of participating investors may be utilized by the Advisor in trading for it or the firm members’ accounts individually. In rendering trading advice to a Client, the Advisor will not knowingly or deliberately favor any proprietary account over the account of the Client. However, no assurance is given that the performance of all accounts managed by the Advisor will be identical or even similar.

Because of price volatility, occasional variations in liquidity, differences in order execution, as well as differences in each account trading level each month, it is impossible for the Advisor to obtain identical trade execution of all its clients. As such, differences in performance among client accounts over time.

The CTA is also the operator of the CPO (Commodity Pool Operator).

In the event a partial fill occurs, the Advisor's account and/or its principal’s account may receive a position once each of the client’s accounts have received a full or partial allocation.

In the event of split fill prices, the accounts will be allocated using an APS (Average Price) basis. In our experience, the occurrence of split and partial fills has been extremely rare, however they may occur. Specific trade allocation information will not be made available to the clients.

A conflict of interest exists insofar as the Advisor is compensated on an incentive fee basis, which may increase the likelihood that the Advisor may engage in trading which is riskier than that which is described in the trading programs and may place the interests of the Advisor in conflict with those of its clients or investors. The Advisor has no intention of engaging in trading in any manner not consistent with the trading programs described herein.

Additionally, no assurance is given that the performance of all accounts controlled by the Advisor will be identical due to, among other things, account size, the time at which the account was opened or closed, and differing levels of leverage.

The Advisor intends to enter orders for clients' accounts before entering orders for proprietary accounts, and in view of market liquidity and open interest, the Advisor believes any adverse effect will be minimal or non-existent. Neither the Advisor nor the principals will trade or take positions ahead of clients' positions

### **PROPRIETARY TRADING BY THE ADVISOR**

The advisor and its principals may continue to trade their own proprietary accounts. Although the advisor will generally trade in parallel with customer accounts, due to differences in leverage, performance may differ significantly from customer performance. Banyan Capital Management will never intentionally favor a proprietary account over a client account, nor will the advisor knowingly permit a proprietary account to trade ahead of a client account. Due to the proprietary nature, the trading records of such trading activity will not be made available to clients for inspection.

### **ADDITION AND WITHDRAWAL REQUIREMENTS**

Additional funds may be added to a Client's existing account at any time with written notice to the Advisor. Withdrawals may be made at anytime. All notices of additions and withdrawals will become effective once acknowledged by the Advisor. Changes to positions held by an account will be made as promptly as possible subsequent to the acknowledgment of the request.

### **MISCELLANEOUS**

This Disclosure Document does not purport to discuss all of the risks concerning trading in Commodity Interests or Banyan's trading programs.

Each client should consult his own tax advisor(s) to determine the income tax and other tax consequences of an investment in a managed account program with specific reference to their own tax situation. Due to the complexity of the tax laws and the various considerations applicable to each client, Banyan does not provide tax advice.

The rates of return earned when an advisor is managing a limited amount of equity may have little relationship to the rates of return that an advisor may be able to achieve managing larger amounts of equity.

Banyan shall not be liable, responsible or accountable in damages or otherwise to the Client, its successors or assigns, except for willful misconduct or gross negligence, and disclaims any liability for human or machine errors in connection with the placement or transmission of orders to trade or not trade commodity interests, including errors of any brokerage firm.

Quarterly management fees are accrued monthly and charged at 2% of net asset value per annum. Quarterly performance fees are accrued monthly and are charged at 20% of new net trading profits. Management fees

and/or performance fees may vary as agreed upon by the advisor and client. Banyan reserves the right to make such determinations on a case-by-case basis.

The United States and foreign commodities markets are subject to ongoing and substantial regulatory changes. It is impossible to predict what statutory, administrative or exchange changes may occur in the future or what impact such changes may have on the Banyan's prospects for profitability.

### **PRIVACY STATEMENT**

Pursuant to the Commodity Futures Trading Commissions new rules, financial institutions like Banyan Capital Management are required to provide privacy notices to their clients. We at Banyan Capital Management consider privacy to be fundamental to our relationship with our clients. We are committed to maintaining the confidentiality, integrity and security of our current and former clients' non-public information. Accordingly, we have developed internal policies to protect confidentiality while allowing clients' needs to be met.

We will not disclose any non-public personal information about clients, except to our affiliates and service providers as allowed by applicable law or regulation. In the normal course of serving our clients, information we collect may be shared with companies that perform various services such as our accountants, auditors and attorneys. Specifically, we may disclose non-public personal information including:

- Information Banyan Capital Management receives from clients on managed account agreements and related forms (such as name, address, Social Security/Tax identification number, birth date, assets, income and investment experience); and
- Information about clients' transactions with Banyan Capital Management (such as account activity and account balances).

Any party that receives this information will use it only for the services required and as allowed by applicable law or regulation, and is not permitted to share or use this information for any other purpose. To protect the personal information of individuals, we permit access only by authorized employees who need access to that information to provide services to our clients and us. In order to guard clients' non-public personal information, we maintain physical, electronic and procedural safeguards that comply with the U.S. federal standards. If the relationship between a client and Banyan Capital Management ends, Banyan Capital Management will continue to treat clients' personal information as described in this notice. An individual client's right to privacy extends to all forms of contact with Banyan Capital Management, including telephone, written correspondence and electronic media, such as email messages via the Internet.

Banyan Capital Management reserves the right to change this privacy notice, and to apply changes to information previously collected, as permitted by law. Banyan Capital Management will inform clients of any such changes as required by law.



Any questions regarding this Privacy Statement should be directed to  
Robert W. Norris II, at  
(704) 517-7845 or  
[RWNII@BanyanCapitalManagementLLC.com](mailto:RWNII@BanyanCapitalManagementLLC.com)