



## **Fairbanks Capital Management, Inc.**

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## **Form ADV, Part 2A Brochure**

**March 30, 2020**

This Form ADV, Part 2A Brochure provides information about the qualifications and business practices of Fairbanks Capital Management, Inc. If you have any questions about the contents of this brochure, please contact us at 858.759.0617 or [info@fairbankscap.com](mailto:info@fairbankscap.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (SEC) or by any state securities authority.

Any reference to or use of the terms "registered investment adviser" or "registered," does not imply that Fairbanks Capital Management, Inc. or any person associated with Fairbanks Capital Management, Inc. has achieved a certain level of skill or training. Additional Information about Fairbanks Capital Management, Inc. is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## **ITEM 2 - MATERIAL CHANGES**

The purpose of this page is to inform you of material changes to our brochure. If you are receiving this brochure for the first time, this section may not be relevant to you.

Fairbanks Capital Management, Inc. (“FCM”) reviews and updates our brochure at least annually to confirm that it remains current. There have been no material changes since the last update to our brochure, dated March 29, 2019.

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## ITEM 4 - ADVISORY BUSINESS

### Description of Advisory Firm

Fairbanks Capital Management, Inc. (“FCM,” “we,” “our,” or “us”), formerly Quality Growth Management, Inc., is registered with the United States Securities and Exchange Commission as a Registered Investment Adviser. We were founded in Rancho Santa Fe, California, on January 2, 1996 by Steven L. Ré, CFA, who continues to own our company.

### Advisory Services Offered

#### Investment Management Services

Our objective is simple: to accumulate wealth through diligent long-term investing in equities and fixed income. We are purely discretionary managers. We determine when, where, how and why to purchase and or sell securities. Clients are required to maintain their own custodial relationship with a brokerage firm or bank.

FCM will primarily utilize the following investment types when making investment purchases in client accounts:

1. Equity securities, such as stocks and foreign securities listed on US exchanges (ADRs) and/or foreign exchanges (ordinaries)
2. Municipal securities
3. Money market funds and cash
4. Master limited partnerships (MLPs)

Additionally, FCM’s investment selections, depending on the individual investment objectives and needs of the client may include:

1. Fixed income securities, such as corporate bonds, commercial paper, and certificates of deposit (CDs)

FCM may also occasionally utilize additional types of investments if they are appropriate to address the individual needs, goals, and objectives of the client or in response to client inquiry. FCM may offer investment advice on any investment held by the client at the start of the advisory relationship. We describe the material investment risks for many of the securities that we utilize under the heading ***Specific Security Risks*** in ***Item 8*** below.

We discuss our discretionary authority below under **Item 16 - Investment Discretion**. For more information about the restrictions clients can put on their accounts, see **Tailored Services and Client Imposed Restrictions** in this item below. We describe the fees charged for investment management services below under **Item 5 - Fees and Compensation**.

#### Financial Planning Services

FCM does not generally provide comprehensive financial planning services, but we may offer financial planning related services as part of our overall advisory services. These services may involve providing advice to clients regarding the investment/management of financial resources based upon an analysis

of their individual needs. However, services do not include preparation of any written financial plan, or any income tax, gift, or estate tax returns, or preparation of any legal documents.

FCM does not receive separate compensation for financial planning related services.

### **Tailored Services and Client Imposed Restrictions**

FCM manages client accounts based on the investment strategy the client chooses, as discussed below under **Item 8 - Methods of Analysis, Investment Strategies, and Risk of Loss**. FCM applies the selected strategy for each client, based on the client's individual circumstances and financial situation. We make investment decisions for clients based on information the client supplies about their financial situation, goals, and risk tolerance. Our investment selections may not be suitable if the client does not provide us with accurate and complete information. It is the client's responsibility to keep FCM informed of any changes to their investment objectives or restrictions.

Clients may also request other restrictions on the account, such as when a client needs to keep a minimum level of cash in the account or does not want FCM to buy or sell certain specific securities or security types in the account. FCM reserves the right to not accept and/or terminate management of a client's account if we feel that the client-imposed restrictions would limit or prevent us from meeting or maintaining the client's investment strategy.

### Wrap Fee Programs

FCM does not manage accounts as part of a wrap or bundled fee program.

### **Assets Under Management**

FCM manages client assets in discretionary accounts on a continuous and regular basis. FCM does not manage client assets on a non-discretionary basis. As of 12/31/2019, the total amount of assets under our management was \$186,156,933.

## **ITEM 5 – FEES AND COMPENSATION**

### **Fee Schedule and Billing Method**

#### Investment Management Services

Equities: 1.5% per year, assessed quarterly, if total assets are under \$500,000, 1.25% between \$500,000 and \$1,000,000, and 1% over \$1,000,000. Fixed Income: assessed at half the rate of equities. Cash assets and money market securities are included in the fee calculation at the rate that reflects whether cash will be used to invest in equities or fixed income.

We deduct fees from accounts on a quarterly basis in advance. Fees are assessed at the middle of each quarter and are calculated on the asset value of accounts at the end of the preceding quarter. For example, fees for the first quarter of the year are deducted from accounts in the middle of February, based on the value of account assets on the preceding December 31st. The formula used for fee calculation is (annual rate x total assets under management at end of the preceding quarter / 4).

Not all clients will be charged as described and in certain circumstances fees are subject to negotiation. Please refer to each client's investment management agreement, confidential offering memorandum, or similar document for a complete description of fees.

### **Other Compensation**

FCM's fees do not include custodian fees. Clients pay all brokerage commissions, stock transfer fees, margin charges, foreign exchange and settlement fees, and/or other charges incurred in connection with transactions in accounts, from the assets in the account. These charges are in addition to the fees the client pays to FCM; however, FCM does not determine or participate in these fees charged by the custodian. See **Item 12 - Brokerage Practices** below for more information

### **Termination**

Either party may terminate the Discretionary Investment Management Agreement upon thirty days written notice. We will refund any prepaid unearned management fees based on the effective date of termination. In the event that termination takes place before our mid-quarter billing, earned but unpaid management fees will be charged upon receipt of notice of termination.

## **ITEM 6 - PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

FCM does not charge a traditional performance-based fee based on a share of capital gains on or capital appreciation of the assets of a client.

However, FCM distributes proceeds from pooled investment vehicles it manages, reduced by the annual administrative costs of the Firm and any other amount that the Managing Member determines to reserve for Firm expenses, each fiscal year. The terms of distribution vary by vehicle, but generally adhere to the following structure: an initial 100% distribution to the members of the vehicle, pro rata in accordance with each member's respective percentage interest, until there has been distributed the amount of any then existing IRR Deficiency. The specific IRR Deficiency is disclosed in the respective offering documents for each vehicle. Following the initial distribution, further distributions will be split on a pro-rata basis to holders of capital and promote units, as disclosed in the offering documents. The amounts distributable to holders of promote interests may include related persons of the Firm and could be considered a performance-based fee.

## **ITEM 7 - TYPES OF CLIENTS**

Our clients include individuals, corporations, foundations, trusts, charities, retirement funds, IRAs, and pooled investment vehicles.

## **ITEM 8 - METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

### **Methods of Analysis and Investment Strategies**

#### Equity Investment Strategy

Our mission is to provide the long-term alpha component to our client's equity portfolios. We approach stock investing as the effort to obtain long-term ownership of part interests in innovative companies with highly scalable businesses – businesses that have the potential to leverage good revenue growth into cash earnings growth within three to five years of the purchase date. We attempt to establish ownership at a price discounted from our estimate of the business' intrinsic value.

The templates, which provide a framework for judging the potential of companies to provide such returns, have not changed over time. Corporate profitability extends from a proprietary position within an industry, such as a moat created by brand name loyalty or innovation leadership. The ability to manage that proprietary position allows a company to extend the economics of its business, including operating profit margin and reinvestment of capital, into the future. Maintenance of such economics over an extended period of years in a very large field of business provides the opportunity for a company to grow to multiples of its former size. Another ingredient of the template is scalability – the ability of the company to grow earnings faster than revenues as revenues grow logarithmically.

We are concentrated investors, the antithesis of a broadly diversified approach. While, it requires investors to patiently hold their portfolio even when other strategies appear to be winning, it allows us to “arbitrage” a typical behavior of the many investors, an unwillingness to fully value the long-term future of a business. And, of course, the value of a business is the present value of future cash earnings that can be earned on its assets, after being shared with its other constituencies. Typical annual portfolio turnover ranges between 10% and 20%, which means we will hold positions for between five and ten years, sometimes longer. We keep winners and shed losers. It is our purpose that our stock selection reflects diligent and high-quality analysis.

It is also possible that the policy of portfolio concentration may well decrease long-term risk, as it requires increasing both the intensity with which an investor thinks about a business and the comfort level he must achieve before buying into it. By focusing on a limited number of selected companies, an investor is better able to study them closely, understand their businesses, and estimate their value. Knowing more about a company reduces the unknown risks; the risks that surprise us are the ones that hurt the most. This approach to risk is directly opposite to the diversification technique recommended by typical investment professionals. The general assumption of a diversified portfolio is that the investor is unable to identify or predict all the risks associated with an investment. The objective of the concentrated investor, however, is to be able to better identify and predict potential risks than competing investors.

Having a focus on individual investments and their intrinsic value allows the rational investor to take advantage of market fluctuations, which can create unusual opportunities to acquire companies at compelling prices. Short-term fluctuations in the price of a stock reflect neither intrinsic value, nor the prospects of long-term investment success.

The road to these rewards is often bumpy, because price volatility is a necessary by-product of the concentrated approach. When a portfolio focuses on just a few companies, a price change in any one of them is all the more noticeable and has greater overall impact. The ability to withstand that volatility, without undue second-guessing, is crucial to the investor's peace of mind and, ultimately, to



financial success. This approach to portfolio management might appear odd to investors used to actively buying and selling stock on a regular basis, but it has two important economic benefits in addition to seeking to grow capital at an above-average rate: it can reduce transaction costs and increase after-tax returns. Furthermore, arithmetic supports long-term investment: a stock cannot go down nearly as much as it has the potential to go up. Our investment philosophy is unchanged since the inception of our firm, despite the contrasting emotions the market has exhibited over that period.

Risks: Investment in securities involves considerable uncertainties and the risk of permanent loss of capital. Stocks decline for numerous reasons both outside of and within the control of the company. Reasons outside of the control of the company include economic weakness, changes in inflation rates and interest rates, unfortunate political developments, negative fiscal policies, and stock market depreciation anywhere in the world. Within companies, results may disappoint in terms of revenues, profit margins, earnings, market share, intellectual property ownership, litigation, and numerous other issues. Dishonest managements and financial statements also damage stock prices. Over our years of experience, we have learned that there are more reasons for stocks to decline than we can enumerate at one sitting.

#### Fixed Income Strategy

We invest in investment grade bonds characterized by high coupons and moderate maturities. We seek active call provisions that serve to shorten the duration and compress the dollar price of the bonds we seek, thereby raising their yield to maturity above that of new issue bonds of comparable maturity.

Risks: Investment in securities involves considerable uncertainties and the risk of permanent loss of capital. The value of fixed income instruments are particularly threatened by inflation, weakening credit conditions, rising interest rates, failing individual credits, untruthful financial statements and management, along with numerous other issues.

#### Cash Allocation

We are very patient investors. It is not prudent to overpay for a company, even a very good company, and we will wait for the price to come down to an acceptable level. Accordingly, client accounts may hold a relatively high level of cash for periods of time. It is important to note that we do not time the market and the cash allocation is not a strategic decision. Rather, cash is a by-product of our disciplined purchase strategy. We do consider the cash as funds available for investment and part of the overall portfolio. Therefore, cash balances are included in the fee calculation. If cash were not included in the fee calculation, it would create a conflict of interest where our fee would increase simply by purchasing more securities, even if those purchases were not in clients' best interest. We have noted this in our Discretionary Investment Management Agreement.

#### Real Estate Pooled Investment Vehicles

FCM invests the assets of its pooled investment vehicle clients in real estate properties, each a "project." The terms of each project vary based on the property and scope. A full description of the investment strategy for each project is contained within each vehicle's confidential offering memorandum.

### *General Real Estate Risks*

Any real estate investment with FCM is subject to the inherent risks attendant to the acquisition, ownership, improvement, management, operation and disposition of real estate, including, without limitation: adverse changes in general or local economic conditions; demand for residential properties in the local market; continued validity and enforceability of the leases; vacancy rates; financial resources of tenants and competitive rent levels; adverse changes in local population trends, market conditions or neighborhood values; supply and demand for properties; competition; real estate tax rates; governmental rules, regulations and fiscal policies; the enactment of unfavorable real estate, rent control, environmental, zoning or hazardous material laws; uninsured losses; and effects of recession or inflation. FCM cannot provide any assurances that its assumptions underlying its investment strategy will provide to be accurate.

### *Low Occupancy Levels*

FCM cannot provide any assurances that each project will be substantially occupied at projected rental rates.

### *General Economic Performance Due to Economic Downturn*

Weakness in regional or national economies could materially and adversely impact projects. If tenants are unable to pay rent due to adverse economic conditions, the owners of the project may not receive the anticipated amount of income from the project.

### *Governmental Activity and Regulation Risk*

The activities of certain real estate companies are strongly affected by federal, state and local governmental activities, regulation and legislation. The real estate industry is extensively regulated and subject to frequent regulatory change. The adoption of new legislation or changes in existing laws or new interpretations of existing laws can have a significant impact on methods and costs of doing business. The real estate industry is and will continue to be subject to varying degrees of regulation and licensing by federal, state and local regulatory authorities in various states and localities.

### *Environmental Risk*

If any hazardous materials are found on or within the projects at any time (whether before, during or after ownership thereof), the owners of the project may be liable for all related cleanup costs, fines, penalties and other expenses. These costs may be substantial and can exceed the value of the project.

### *Risk of Uninsured Loss*

There are certain risks relating to the project that may be uninsurable or not insurable on terms that the sponsor believes to be economical.

### *Renovation Risk*

The project is subject to risks normally associated with real estate renovation activities. Such risks include, but are not limited to, the market's appetite to pay a premium for renovated apartments, the availability of vacant units to renovate, income lost while units remain vacant during renovation, damages to the property incurred as a direct or indirect result of the renovation process, and the cost and timely completion of renovations (including risks beyond the control of the sponsor, such as weather or labor conditions or material shortages). These risks could result in substantial unanticipated delays or expenses and, under certain circumstances, could prevent completion of renovation activities once undertaken, any of which could have an adverse effect on the financial condition and results of operations of the project and/or FCM and on the amount of funds available for distribution to the owners of the project.

### General Risks of Owning Securities

The prices of securities held in client accounts and the income they generate may decline in response to certain events taking place around the world. These include events directly involving the issuers of securities in a client's account, conditions affecting the general economy, and overall market changes. Other contributing factors include local, regional, or global political, social, or economic instability and governmental or governmental agency responses to economic conditions. Finally, currency, interest rate, and commodity price fluctuations may also affect security prices and income.

### Equity Securities

Equity securities represent an ownership position in a company. Equity securities typically consist of common stocks. The prices of stocks and the income they generate (such as dividends) may fluctuate based on events specific to the company that issued the shares, conditions affecting the general economy and overall market changes, changes or weakness in the business sector the company does business in, and other factors. Further, prices of these securities can be affected by financial contracts held by the issuer or third parties (such as derivatives) relating to the security or other assets or indices.

There may be little trading in the secondary market for particular equity securities, which may adversely affect the ability to dispose of those equity securities. Adverse publicity and investor perceptions, whether or not based on fundamental analysis, may decrease the value and/or liquidity of equity securities.

### *Small Capitalization Equity Securities*

Investing in smaller companies may pose additional risks as it is often more difficult to dispose of small company stocks, more difficult to obtain information about smaller companies, and the prices of their stocks may be more volatile than stocks of larger, more established companies. Clients should have a long-term perspective and, for example, be able to tolerate potentially sharp declines in value.

### Municipal Bonds

Municipal bonds are debt obligations generally issued to obtain funds for various public purposes, including the construction of public facilities. Municipal bonds pay a lower rate of return than most other types of bonds. However, because of a municipal bond's tax-favored status, investors should compare the relative after-tax return to the after-tax return of other bonds, depending on the

investor's tax bracket. Investing in municipal bonds carries the same general risks as investing in bonds in general. Those risks include interest rate risk, reinvestment risk, inflation risk, market risk, call or redemption risk, credit risk, and liquidity and valuation risk. Investing in municipal bonds carries risk unique to these types of bonds, which may include:

#### *Legislative Risk*

Legislative risk includes the risk that a change in the tax code could affect the value of taxable or tax-exempt interest income.

#### *Tax-Bracket Changes*

Municipal bonds generate tax-free income, and therefore pay lower interest rates than taxable bonds. Investors who anticipate a significant drop in their marginal income-tax rate may benefit from the higher yield available from taxable bonds.

#### *Liquidity Risk*

The risk that investors may have difficulty finding a buyer when they want to sell and may be forced to sell at a significant discount to market value. Liquidity risk is greater for thinly traded securities such as lower-rated bonds, bonds that were part of a small issue, bonds that have recently had their credit rating downgraded or bonds sold by an infrequent issuer. Municipal bonds may be less liquid than other bonds.

#### *Credit Risk*

Credit risk includes the risk that a borrower will be unable to make interest or principal payments when they are due and therefore default. To reduce investor concern, insurance policies that guarantee repayment in the event of default back many municipal bonds.

#### Cash and Cash Equivalents

Cash and cash equivalents are the most liquid of investments. Cash and cash equivalents are considered very low-risk investments meaning, there is little risk of losing the principal investment. Typically, low risk also means low return and the interest an investor can earn on this type of investment is low relative to other types of investing vehicles.

#### Master Limited Partnerships (MLPs)

MLPs are publicly traded partnerships that trade mainly on the New York Stock Exchange and/or the NASDAQ, the same as stocks. With a few exceptions, MLPs hold and operate assets related to the transportation and storage of energy (certain MLPs may have commodity risk). Most publicly traded companies are corporations. Corporate earnings are usually taxed twice. The business entity is taxed on any money it makes and then shareholders are taxed on the earnings the company distributes to them.

In the 1980s, Congress allowed public trading of certain types of companies as partnerships instead of as corporations. The main advantage a partnership has over a corporation is that partnerships are "pass through" entities for tax purposes. This means that the company does not pay any tax on its earnings. Distributions are still taxed, but this avoids the problem of double taxation that most publicly traded companies face. Congress requires that any company designated as an MLP has to produce 90% of its earnings from "qualified resources" (natural resources and real estate). Most MLPs are involved in energy infrastructure, i.e. things like pipelines. MLPs are required to pay minimum

distributions to limited partners. A contract establishes the payments, so distributions are predictable. Otherwise, the shareholders could find the company in breach of contract.

In addition to general business risks, MLPs bear the following risks:

#### *Risk of Regulation or Change*

The main advantage of an MLP is its tax-advantaged status under the current Internal Revenue Code. Therefore, changes in the tax code resulting in the loss of its preferential treatment could significantly affect the viability of MLP investments.

#### *Interest Rate Risk*

It is commonly thought that MLPs perform better when interest rates are low, making their yield higher in relation to the safest investments, such as Treasury bills and securities that are guaranteed by the U.S. government. Consequently, MLPs may perform better during periods of declining or relative low interest rates and more poorly during periods of rising or high interest rates.

#### *Tax Risk*

MLPs are pass-through entities, passing earnings through to the limited partners. Investors must be aware that there are potentially significant tax implications of investing in MLPs and they should consult with their tax advisor before investing in these securities. For example, income allocated to organizations that are exempt from federal income tax, including IRAs and other retirement plans, may be allocated unrelated business taxable income from a master limited partnership and this income could be taxable to them.

#### Debt Securities (Bonds)

Issuers use debt securities to borrow money. Generally, issuers pay investors periodic interest and repay the amount borrowed either periodically during the life of the security and/or at maturity. Alternatively, investors can purchase other debt securities, such as zero coupon bonds, which do not pay current interest, but rather are priced at a discount from their face values and their values accrete over time to face value at maturity. The market prices of debt securities fluctuate depending on such factors as interest rates, credit quality, and maturity. In general, market prices of debt securities decline when interest rates rise and increase when interest rates fall. The longer the time to a bond's maturity, the greater its interest rate risk.

Certain additional risk factors relating to debt securities include:

#### *Reinvestment Risk*

When interest rates are declining, investors have to reinvest their interest income and any return of principal, whether scheduled or unscheduled, at lower prevailing rates.

#### *Inflation Risk*

Inflation causes tomorrow's dollar to be worth less than today's; in other words, it reduces the purchasing power of a bond investor's future interest payments and principal, collectively known as "cash flows." Inflation also leads to higher interest rates, which in turn leads to lower bond prices.

### *Interest Rate and Market Risk*

Debt securities may be sensitive to economic changes, political and corporate developments, and interest rate changes. Investors can also expect periods of economic change and uncertainty, which can result in increased volatility of market prices and yields of certain debt securities. For example, prices of these securities can be affected by financial contracts held by the issuer or third parties (such as derivatives) relating to the security or other assets or indices.

### *Call Risk*

Debt securities may contain redemption or call provisions entitling their issuers to redeem them at a specified price on a date prior to maturity. If an issuer exercises these provisions in a lower interest rate market, the account would have to replace the security with a lower yielding security, resulting in decreased income to investors.

### Risk Controls

Our risk controls generally include:

- Sector constraint of 2x versus a broad market benchmark
- A 15% position will trigger a critical review
- Gains harvested when a position becomes 20% of the portfolio
- A 10% decline from current price will prompt a critical review
- Cash position can be used as a form of risk control
- Active monitoring through channel checks, calls with management, etc.

Any of these risk provisions are subject to FCM's discretion, and unique perspective on the market, and specific companies in which we hold securities, to include sector weightings; wherein we may elect to view businesses as operating in sectors, which differ from those of other benchmarks.

### Miscellaneous Provisions

With the exception of various "money market" or "sweep" vehicles used for idle cash, FCM generally does not purchase any sort of options, derivatives, pooled vehicles, mutual funds, ETFs or other managers' 'products' on any client's behalf. Exceptions may be made on a case-by-case basis upon specific client request.

## **ITEM 9 - DISCIPLINARY INFORMATION**

Our company and personnel seek to maintain the highest level of business professionalism, integrity, and ethics. We do not have any disciplinary information to disclose.

## **ITEM 10 - OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

No management persons are registered, or have an application pending to register, as a broker-dealer, registered representative of a broker-dealer, futures commission merchant, commodity pool operator, commodity trading advisor, or as an associated person of the foregoing entities. Further, FCM does not recommend or select other investment advisers.

We describe the roles of managing persons in Kingsbury Financial L.P., a Delaware Series Limited Partnership in **Participation or Interest in Client Transactions** in **Item 11**, below.

## **ITEM 11 - CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

### **Code of Ethics**

FCM believes that we owe clients the highest level of trust and fair dealing. As part of our fiduciary duty, we place the interests of our clients ahead of the interests of the firm and our personnel. FCM has adopted a Code of Ethics that emphasizes the high standards of conduct that FCM seeks to observe. FCM's personnel are required to conduct themselves with integrity at all times and follow the principles and policies detailed in our Code of Ethics.

FCM's Code of Ethics attempts to address specific conflicts of interest that either we have identified or that could likely arise. FCM's personnel are required to follow clear guidelines from the Code of Ethics in areas such as gifts and entertainment, other business activities, prohibitions of insider trading, and adherence to applicable state and federal securities laws. Additionally, individuals who formulate investment advice for clients, or who have access to nonpublic information regarding any clients' purchase or sale of securities, are subject to personal trading policies governed by the Code of Ethics (see below).

FCM will provide a complete copy of the Code of Ethics to any client or prospective client upon request.

### Personal Trading Practices

FCM and our personnel generally purchase or sell securities for themselves that we also utilize for clients. This includes related securities (e.g., warrants, options, or futures). This presents a potential conflict of interest, as we may have an incentive to take investment opportunities from clients for our own benefit, favor our personal trades over client transactions when allocating trades, or use the information about the transactions we intend to make for clients to our personal benefit by trading ahead of clients.

Our policies to address these conflicts include the following:

1. The client receives the opportunity to act on investment decisions prior to and in preference to accounts of FCM and our personnel (an exception exists when our personnel trade alongside clients within a block trade and all accounts receive equal pricing).
2. FCM prohibits trading in a manner that takes personal advantage of price movements caused by client transactions.
3. If we wish to purchase or sell the same security as we recommend or take action to purchase or sell for a client, we will not do so until the custodian fills client orders. (except when the transaction meets the de minimis policy contained in our Code of Ethics or when we are

aggregating personal and proprietary trades with client trades as disclosed under Aggregation with Client Orders below) As a result of this policy, it is possible that clients may receive a better or worse price than FCM or any employee for the same security on the same day as a client or one or more days before or after the client's transaction.

4. If we wish to purchase or sell the same security that we are considering or taking action to purchase or sell for a client, we will not do so until the broker-dealer fills client orders or we have decided not to purchase or sell the security for clients. As a result of this policy, it is possible that clients may receive a better or worse price than our personnel for the same security on the same day as a client or one or more days before or after the client's transaction.
5. FCM requires our personnel to obtain pre-approval for certain personal trades from the Chief Compliance Officer.
6. FCM requires our personnel to report personal securities transactions on a quarterly basis.
7. Our personnel will report personal securities transactions to FCM, as required by securities regulations.
8. Conflicts of interest also may arise when FCM's personnel become aware of limited offerings or IPOs, including private placements or offerings of interests in limited partnerships or any thinly traded securities, whether public or private. Given the inherent potential for conflict, limited offerings and IPOs demand extreme care. FCM's personnel are required to obtain pre-approval from the Chief Compliance Officer before trading in these types of securities.
9. Under certain limited circumstances, we make exceptions to the policies stated above. FCM will maintain records of these trades, including the reasons for any exceptions.

#### How We Operate and Potential Conflicts of Interest

For a fixed percentage fee relative to account size and asset allocation, we select corporate and government-backed investments for clients consisting primarily of equities and bonds. A thorough discussion of long-term objectives, risk tolerance, and investment experiences of the client leads to an understanding between the client and FCM that forms the basis of portfolio composition. Sensitivity towards client concerns is emphasized so that client comfort is included in the investment program. We are willing to spend time educating clients about the difference between speculation and serious investing. We exercise trading discretion over managed accounts.

Employees shall not knowingly participate in any actions that violate government regulations or fail to comply with the CFA Institute's Code of Ethics and Standards of Professional Conduct. The CFA Institute's Code of Ethics and Standards of Professional Conduct are to be used as a guide by all employees.

#### **Aggregation with Client Orders**

FCM may aggregate orders for clients in the same securities in an effort to seek best execution, negotiate more favorable commission rates, and/or allocate differences in prices, commissions, and



other transaction costs equitably among our clients. These are benefits of aggregating orders that we might not obtain if we placed those orders independently.

FCM may aggregate trades in like securities among client accounts as well as with accounts of FCM and our personnel, as described in the policies below. Aggregation presents a potential conflict of interest as we may have an incentive to allocate more favorable executions to our own accounts or the accounts of our personnel.

Our policies to address this conflict are as follows:

1. We will disclose our aggregation policies in this brochure;
2. We will not aggregate transactions unless we believe that aggregation is consistent with our duty to seek best execution (which includes the duty to seek best price) for our clients. The trade also needs to be consistent with the terms of our investment advisory agreement with each client that has an account included in the aggregation;
3. We will not favor any account over any other account. This includes accounts of FCM or any of our personnel. Each account in the aggregated order will participate at the average share price for all of our transactions in a given security on a given business day (per custodian). All accounts will pay their individual transaction costs;
4. Before entering an aggregated order, we will prepare a written statement (the “Allocation Statement”) specifying the participating accounts and how we intend to allocate the order among those accounts;
5. If the aggregated order is filled entirely, we will allocate shares among clients according to the Allocation Statement; if the order is partially filled, we will allocate it pro-rata according to the Allocation Statement.
6. However, we may allocate the order differently than specified in the Allocation Statement if all client accounts receive fair and equitable treatment. (See also **Item 12 – Brokerage Practices** below) In this case, we will explain the reasons for a different allocation in writing, which the CCO must approve;
7. If we determine that a pro-rata allocation is not appropriate under the particular circumstances, we will base the allocation on other relevant factors, which may include:
  - a. When only a small percentage of the order is executed, with respect to purchase allocations, allocations may be given to accounts high in cash;
  - b. With respect to sale allocations, allocations may be given to accounts low in cash;
  - c. We may allocate shares to the account with the smallest order, or to the smallest position, or to an account that is out of line with respect to security or sector weightings, relative to other portfolios with similar mandates;
  - d. We may allocate to one account when that account has limitations in its investment guidelines prohibiting it from purchasing other securities that we expect to produce similar investment results and that can be purchased by other accounts in the block;

- e. If an account reaches an investment guideline limit and cannot participate in an allocation, we may reallocate shares to other accounts. For example, this may be due to unforeseen changes in an account's assets after an order is placed;
  - f. If a pro-rata allocation of a potential execution would result in a *de minimis* allocation in one or more accounts, we may exclude the account(s) from the allocation and disgorge any profits. Generally, *de minimis* allocations do not exceed 5% of the total allocation. Additionally, we may execute the transactions on a pro-rata basis.
  - g. We will document the reasons for any deviation from a pro-rata allocation.
8. If an aggregated order is partially filled and we allocate it differently than the Allocation Statement specifies, no participating account may purchase or sell the security for a reasonable period following the execution of the block trade. This only applies when the participating account sells or receives more shares than it would have if the aggregated order been completely filled;
  9. Our books and records will separately reflect each aggregated order and the securities held by, bought, and sold for each client account;
  10. Funds and securities of clients participating in an aggregated order will be deposited with one or more qualified custodians. Clients' cash and securities will not be held collectively any longer than is necessary to settle the trade on a delivery versus payment basis. Following settlement, cash or securities held collectively for clients will be delivered out to the qualified custodian as soon as practical;
  11. We do not receive additional compensation or remuneration of any kind as a result of aggregating orders; and
  12. We will provide individual investment advice and treatment to each client's account.

## **Participation or Interest in Client Transactions**

### General Partner/Managing Member/Owner/Investor

Management Persons of FCM serve as owners and managers of Kingsbury Financial L.P., a Delaware Series Limited partnership (KFLP). KFLP has, in the past, offered securities through a syndicated structure in which associated Limited Liability Companies were created to acquire and hold investment interests in apartment projects (direct and joint-venture, existing and new-development), and are now solely controlled and managed by Kingsbury Management L.L.C. KFLP serves in a Special Advisory role to these companies; KFLP itself, as well as limited partners thereof, which include Management Persons of FCM, hold both capital and promote units in these companies. Additionally, KFLP may invest directly or indirectly in related and non-related business activities of FCM. FCM Management Persons spend an appropriate, yet limited amount of time on these activities. Some of the investors in KFLP associated Limited Liability Companies are also clients of Fairbanks Capital Management, Inc.

The principals of FCM sometimes acquire interests in privately held companies. From time to time, FCM has presented, and may again choose to present, private placement interests in these companies to clients for which FCM believes the investment could be suitable and advantageous. FCM will only present such opportunities to clients who meet the requisite income and/or net worth requirements

and where FCM believes that the investment would be appropriate for the client based on the client's ability to accept the risk of making such an investment.

A conflict would potentially exist if FCM stood to benefit from additional investment in companies in which FCM Management Persons, or KFLP holds investment interests. Further, the potential for conflict exists where FCM could seek to unload (or share the burden of) underperforming assets from proprietary portfolios. Clients will receive the offering memorandum and full disclosure of all known risks before investing. In addition, FCM will disclose any proprietary interest in the company to the client.

KFLP currently has no open offerings and no similar offerings are foreseen in the future.

## **ITEM 12 - BROKERAGE PRACTICES**

### **Factors Considered in Selecting Broker-Dealers for Client Transactions**

Clients must maintain assets in an account at a "qualified custodian," generally a broker-dealer or bank. We recommend broker-dealers to our clients. We are independently owned and operated, and unaffiliated with the broker-dealers we recommend to clients. Each broker-dealer will hold client assets in a brokerage account, and buy and sell securities when we instruct them to.

While we recommend that clients use certain broker-dealers as custodian/broker, the client must decide whether to do so and open accounts with the recommend broker-dealer by entering into account agreements directly with them. We do not open accounts for clients, although we may assist them in doing so. Not all advisors request their clients to use a particular broker-dealer or other custodian selected by the advisor. Even though clients maintain accounts at one of the Firm's recommended broker-dealers, we can still use other broker-dealers to execute trades for client accounts (see ***Client Brokerage and Custody Costs***, below).

#### How We Select Brokers/Custodians

We seek to recommend a custodian/broker who will hold client assets and execute transactions on terms that are, overall, most advantageous when compared to other available providers and their services. We consider a wide range of factors, including, among others:

1. Combination of transaction execution services and asset custody services (generally without a separate fee for custody)
2. Capability to execute, clear, and settle trades (buy and sell securities for client accounts)
3. Capability to facilitate transfers and payments to and from accounts (wire transfers, check requests, bill payment, etc.)
4. Breadth of available investment products (stocks, bonds, mutual funds, exchange-traded funds [ETFs], etc.)
5. Availability of investment research and tools that assist us in making investment decisions
6. Quality of services

7. Competitiveness of the price of those services (commission rates, other fees, etc.) and willingness to negotiate the prices
8. Reputation, financial strength, and stability
9. Prior service to FCM and our other clients
10. Availability of other products and services that benefit us

#### Client Brokerage and Custody Costs

For our clients' accounts maintained by a recommended broker-dealer, the broker-dealer generally does not charge separately for custody services. However, the broker-dealer may receive compensation by charging commissions or other fees on trades that it executes or that settle into clients' accounts.

In addition to commissions, each broker-dealer charges a flat dollar amount as a "prime broker" or "trade away" fee for each trade that we have executed by a different broker-dealer but where the securities bought or the funds from the securities sold are deposited (settled) into a clients' account. These fees are in addition to the commissions or other compensation the client pays the executing broker-dealer. Because of this, in order to minimize trading costs, we have our recommended broker-dealers execute most trades for client accounts. We have determined that having recommend broker-dealers execute most trades is consistent with our duty to seek "best execution" of client trades. Best execution means the most favorable terms for a transaction based on all relevant factors, including those listed above (see ***How We Select Brokers/Custodians***).

#### **Brokerage for Client Referrals**

We have no existing relationships with outside solicitors, brokers, and/or custodians that refer clients to us. We have no existing cases in which we direct trades that generate commissions to a broker that refers clients to us.

#### **Directed Brokerage Transactions**

FCM is prepared to work with any broker-dealer that the client chooses. The above disclosure outlines the brokers and custodians that FCM recommends.

Clients who direct FCM to use a particular broker-dealer for trading may pay higher commission charges. Under these circumstances, FCM may not have authority to negotiate commissions or obtain volume discounts, and best execution may not be achieved. Clients should further understand that when they direct FCM to use a specific broker disparity in transaction charges might exist between the transaction costs charged to other clients. FCM may not be able to aggregate orders to reduce transaction costs and clients who direct FCM to use a particular broker-dealer may receive less favorable prices.

Unless otherwise directed by the client, we have discretion to direct client trades to brokerage firms of our choosing, even if a different brokerage firm serves as custodian of the account. For instance, we may direct a trade to Merrill Lynch Institutional, even though Raymond James Financial Services, Inc. and Interactive Brokers LLC serve as the custodians. The trade may cost more per share in

commission than the custodian would charge, but may benefit from superior execution. Custodians usually charge a service fee of \$25.00 for a “trade away.”

### **Aggregation and Allocation of Transactions**

We describe our aggregation practices in detail under **Item 11 - Aggregation with Client Orders** above.

## **ITEM 13 - REVIEW OF ACCOUNTS**

### **Managed Account Reviews**

Client accounts are reviewed on a monthly basis. Companies we invest in are reviewed continually. All account reviews are conducted by our portfolio management team. Account reviews may also occur upon client request, changing economic conditions either on a macro-level or in the portfolio companies held by FCM clients, and for any other reason, which may merit a review in the eyes of FCM Management Persons.

### **Account Reporting**

We do not prepare regular monthly reports for clients -- the broker/dealers and trust companies that serve as custodians handle this responsibility. We prepare quarterly summaries, including cost basis information, for our clients.

## **ITEM 14 - CLIENT REFERRALS AND OTHER COMPENSATION**

### **Outside Compensation**

FCM may refer clients to unaffiliated professionals for a variety of services such as insurance, mortgage brokerage, real estate sales, estate planning, legal, and/or tax/accounting services. In turn, these professionals may refer clients to FCM. FCM does not receive any monetary compensation for referring our clients to unaffiliated professionals. However, it could be concluded that FCM is receiving an indirect economic benefit from this practice as the relationships are mutually beneficial and there could be incentive to recommend services of those who refer clients to FCM. These referrals do not involve in any way client brokerage or the use of client commissions.

FCM only refers clients to professionals we believe are competent and qualified in their field but it is ultimately the client's responsibility to evaluate the provider, and it is solely the client's decision whether to engage a recommended firm. Clients are under no obligation to purchase any products or services through these professionals, and FCM has no control over the services provided by another firm. Clients who chose to engage these professionals will sign a separate agreement with the other firm. Fees charged by the other firm are separate from and in addition to fees charged by FCM.

If the client desires, FCM will work with these professionals or the client's other advisers (such as an accountant, attorney, or other investment adviser) to help ensure that the provider understands the client's financial plan/investments and to coordinate services for the client. FCM does not share information with an unaffiliated professional unless first authorized by the client.

## **Solicitors**

FCM may engage the services of one or more solicitors consistent with the requirements of Rule 206-4(3) under the Investment Advisers Act of 1940 primarily with respect to certain separate managed accounts pursuant to pre-existing relationships. The payments might induce the solicitor to recommend an investment manager to a client which the solicitor might not otherwise recommend. In order to mitigate such a conflict, FCM documents each Client's investment goals and objectives and provides a discussion of its evaluation via internal memo to ensure that Clients are only referred to such advisers when it is in their best interest.

## **ITEM 15 - CUSTODY**

FCM does not maintain custody except as described below and clients may authorize us to deduct our management fees directly from the client's account. A qualified custodian (generally a broker-dealer, bank, trust company, or other financial institution) holds clients' funds and securities. Clients will receive statements directly from their qualified custodian at least quarterly. The statements will reflect the client's funds and securities held with the qualified custodian as well as any transactions that occurred in the account, including the deduction of our fee.

Clients should carefully review the account statements they receive from the qualified custodian. When clients receive statements from FCM as well as from the qualified custodian, they should compare these two reports carefully. Clients with any questions about their statements should contact us at the address or phone number on the cover of this brochure. Clients who do not receive a statement from their qualified custodian at least quarterly should also notify us.

Under SEC Rule 206(4)-2, FCM is generally deemed to have custody of the securities and other assets of the MLPs it advises. Such securities and assets are maintained by one or more "qualified custodians," and limited partners in each MLP receive statements no less than quarterly. Investors in the Funds will be provided with audited annual financial statements within 120 days of the end of FCM's fiscal year.

## **ITEM 16 - INVESTMENT DISCRETION**

### **Discretionary Management**

FCM has full discretion to decide the specific security to trade, the quantity, and the timing of transactions for client accounts. FCM will not contact clients before placing trades in their account, but clients will receive confirmations directly for any trades placed. Clients grant us discretionary authority in the contracts they sign with us. Clients also give us trading authority over their accounts when they sign the custodian paperwork.

However, certain client-imposed conditions may limit our discretionary authority, such as where the client prohibits transactions in specific security types or directs FCM to execute transactions through

specific broker-dealers. See also **Tailored Services and Client Imposed Restrictions** under **Item 4** and **Item 12 – Brokerage Practices**, above.

## **ITEM 17 - VOTING CLIENT SECURITIES**

### **Proxy Voting**

FCM does not accept or have the authority to vote client securities. However, clients may call us if they have questions about a particular solicitation. FCM will not be deemed have proxy voting authority solely as a result of providing advice or information about a particular proxy vote to a client. Clients will receive their proxies or other solicitations directly from their custodian or a transfer agent.

### ERISA

For accounts subject to ERISA, an authorized plan fiduciary other than FCM will retain proxy voting authority. Our investment advisory agreement and/or the plan's written documents will evidence and outline this authority.

### Mutual Funds

The investment adviser that manages the assets of a registered investment company (i.e., mutual fund) generally votes proxies issued on securities held by the mutual fund.

### **Class Actions**

FCM does not instruct or give advice to clients on whether or not to participate as a member of class action lawsuits and will not automatically file claims on the client's behalf. However, if a client notifies us that they wish to participate in a class action, we will provide the client with any transaction information pertaining to the client's account needed for the client to file a proof of claim in a class action.

## **ITEM 18 - FINANCIAL INFORMATION**

Registered investment advisers are required in this item to provide clients with certain financial information or disclosures about the firm's financial condition. FCM does not require the prepayment of more than \$1,200 in fees per client, six months or more in advance, does not have or foresee any financial condition that is reasonably likely to impair our ability to meet contractual commitments to clients, and has not been the subject of a bankruptcy proceeding.