

**KMS Financial Services, Inc.**  
**Form ADV Part 2A Firm Brochure**

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This brochure provides information about the qualifications and business practices of KMS Financial Services, Inc. ("KMS"). This information has not been approved or verified by the United States Securities and Exchange Commission ("SEC") or by any state regulatory authority.

KMS is a registered investment adviser. Registration of an investment adviser does not imply any level of skill or training. Additional information about KMS is available at [www.kms.com](http://www.kms.com) and the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). If you have questions about the contents of this brochure, please contact us at (206) 441-2885.

## **Item 2 – Material Changes**

Since April 2019, KMS has made the following material changes to this Brochure:

- Item 4 (Advisory Business) - Ownership Changes: Ladenburg Thalmann Financial Services Inc. is now a wholly-owned subsidiary of Advisor Group Holdings, Inc. which is owned primarily by a consortium of investors through RCP Artemis Co-Invest, L.P., an investment fund affiliated with Reverence Capital Partners LLC.
- Item 10 (Other Financial Activities and Affiliations): This section was amended to disclose new related persons that are operationally separate from KMS but under common control of parent company Advisor Group Holdings, Inc.

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## Item 4 – Advisory Business

KMS, founded in 1971, is a Seattle-based, independently operated investment advisory firm registered with the Securities Exchange Commission (SEC), SEC file No. 801-11375. KMS is also a securities broker-dealer registered with the SEC, the Financial Industry Regulatory Authority (“FINRA”), and all 50 states plus the District of Columbia.

KMS operates through supervised financial professionals who are investment and/or securities registered Financial Professionals. Registration does not imply any particular level of skill or training, although many KMS Financial Professionals maintain related certifications and designations.

KMS is a wholly-owned subsidiary of Ladenburg Thalmann Financial Services Inc. (LTFS). LTFS provides a diverse array of financial products and services through a number of subsidiaries. LTFS has several other affiliates registered as investment advisors, an investment company, insurance broker, broker/dealers and a trust company. LTFS is a holding company primarily engaged in business through its subsidiaries.

LTFS is a wholly-owned subsidiary of Advisor Group Holdings, Inc., which is owned primarily by a consortium of investors through RCP Artemis Co-Invest, L.P., an investment fund affiliated with Reverence Capital Partners LLC. The consortium of investors includes, RCP Genpar Holdco LLC, RCP Genpar L.P., RCP Opp Fund II GP, L.P., and The Berliniski Family 2016 Trust.

Financial Professionals who engage in advisory business are allowed to conduct their investment advisory activities under a separate unaffiliated business name or “DBA” (“doing business as”). Such Financial Professionals are registered with KMS and provide investment advice through KMS. KMS supervises the Financial Professionals’ investment advisory activities. The names of such DBAs include but are not limited to: Capital Financial Planners, Delta Financial Group, Financial Resources, Kirkland Financial, Koenig Financial Group, Martinson Stoller Advisors, Summit Advisors NW, Scout Asset Management, Sustainable Wealth Management, Synergy Financial Group and The O’Hagan Group. Fee agreements and marketing materials clearly disclose KMS as the Registered Investment Advisor clients are engaging for investment advisory services.

KMS offers a range of investment advisory services through multiple platforms and custody arrangements. Those services include financial planning, investment advice and asset management for fees based on a percentage of assets under management, as well as advisory services of a number of unaffiliated third-party investment advisors. KMS offers these products and services to the public through its Financial Professionals who are registered as Investment Advisor Representatives.

Each KMS Financial Professional should provide his or her advisory Clients with details of the Financial Professional’s background in a 2B Brochure Supplement, which is available from your Financial Professional or by contacting KMS. **If you have not received such 2B Brochure Supplement, please contact your Financial Professional or KMS.**

As of December 31, 2019, KMS had approximately \$6,717,341,769 billion of discretionary assets under management and approximately \$1,475,977,586 billion of non-discretionary assets under management for a total of approximately \$8,193,319,355 billion assets under management.

If a Financial Professional offers investment advice for a fee, that Financial Professional may tailor the advisory services he or she offers to the individual requests of specific Clients. For example, Clients may request that certain securities or types of securities be avoided. If it is difficult to determine all of the underlying securities of a particular advisory product or service, the Financial Professional will make reasonable efforts to avoid the specified securities or type of securities.

**Wrap Fee Program:** Through its Financial Professionals, KMS provides portfolio management services under a “wrap fee” structure, i.e., a single fee which covers certain transaction costs as well as portfolio management services and advice. Generally the portfolio management services under the KMS Wrap Fee Program are

similar to other KMS portfolio management services under different fee structures. Several factors should be evaluated when considering a KMS Wrap Fee program account including, but not limited to account size; anticipated account trading volume; management style; investment goals; and client preference for a portfolio management program which includes transaction charges. There are no commissions charged in KMS' Wrap Fee program; however, the Program charges a 25 basis point (0.25% per year) administrative retention (platform) fee that is paid from (i.e., out of) the advisory fee collected from Wrap Fee accounts. This does not increase your advisory fee (but please note that wrap accounts typically have a higher standard fee schedule than non-wrap accounts due to the decreased portion of the fee that is shared with your Financial Professional). KMS receives a portion of the platform fee. KMS' Wrap Fee program brochure is available through KMS or your Financial Professional.

**Institutional Intelligent Investment Portfolios:** KMS also offers an automated investment program (the "Schwab Program") through which clients are invested in a range of investment strategies the Financial Professional constructs and manages, each consisting of a portfolio of exchange traded funds ("ETFs") and/or mutual funds and a cash allocation. We use the Institutional Intelligent Portfolios Platform ("Platform") offered by Schwab Performance Technologies ("SPT") to operate the Schwab Program. The client may request reasonable restrictions to the funds held in their portfolio. The client's portfolio is held in a brokerage account opened by the client at Charles Schwab & Co. ("CS&Co."). KMS is independent of and not owned by, affiliated with, or sponsored or supervised by SPT, CS&Co or their affiliates (together, "Schwab"). We have contracted with SPT, a software provider to independent investment advisors and an affiliate of CS&Co to provide us with the Platform, which consists of technology and related trading and account management services for the Program.

KMS, not Schwab, is the client's investment advisor and the KMS Financial Professional is the primary point of contact with respect to the Schwab Program. The Financial Professional determines the appropriateness of the Program for the client, recommending a suitable investment strategy and portfolio for the client's investment needs and goals, and managing that portfolio on an ongoing basis. KMS has contracted with SPT to provide us with the technology platform and related trading and account management services for this Program. This platform enables us to make the Program available to clients online and includes a system that automates certain key parts of our investment process (the "System"). The System includes an online questionnaire that helps the Financial Professional determine the client's investment objectives and risk tolerance and recommend an appropriate investment strategy and portfolio. The client may indicate an interest in a portfolio that is one level less or more conservative or aggressive than the recommended portfolio. The Financial Professional will recommend a model portfolio based on the client's stated investment objectives, risk tolerance and other information KMS has about the client.

The System also includes an automated investment engine through which KMS manages the client's portfolio on an ongoing basis through automatic rebalancing and tax-loss harvesting (if the client is eligible and elects). Clients do not pay fees to SPT in connection with the Schwab Program, but KMS charges clients a fee for our services as described below under Item 5 (Fees and Compensation). Clients do not pay brokerage commissions or any other fees to CS&Co as part of this Program. Schwab does receive other revenues in connection with this Program. KMS does not pay STP fees for its services so long as KMS maintains \$100 million in client assets in accounts at CS&Co that are not enrolled in the Program. If we do not meet this condition, then KMS pays an annual licensing fee of 0.10% (10 basis points) on the value of our clients' assets in the Program. This fee arrangement gives us an incentive to recommend or require that our clients with accounts not enrolled in the Program be maintained with CS&Co. KMS mitigates this conflict through this disclosure to you.

**Financial Planning and Consulting Services:** KMS Financial Professionals may offer **Financial Planning Services**, which may include collecting financial data, developing income and net worth statements, estate analysis, estate tax calculations, income tax analysis, investment analysis and general recommendations, and preparing a formal financial plan. Financial Professionals may provide occasional personal income or estate tax planning ideas which should be reviewed and implemented by your independent tax professional(s). Services are offered under an Advisory Agreement – Financial Consulting.

Financial Professionals may provide **Retirement Plan Consulting** by helping Clients in establishing new or converting existing retirement plans or accounts, recommending or selecting investments to be made available to plan participants, providing participant or fiduciary education, assisting in service provider evaluation or benchmarking, or providing performance reports and other performance related information. Retirement plans are usually participant-directed, but in some situations Financial Professionals are granted trading authority in the advisory contract. Services are offered under an Advisory Agreement – Financial Consulting or Retirement Plan Advisory Agreement.

**Advisor Asset Management Services:** Financial Professionals may offer **Portfolio Monitoring and Consulting Services** by monitoring a Client's account holdings, providing ongoing investment recommendations and advice, and asset management through discretionary or nondiscretionary trade placement consistent with the Client's investment objective, as declared in the advisory agreement. **There is no guarantee that the recommendations or trades will meet a Client's investment objective over any given time frame.** The Financial Professional will deliver to the Client performance report(s) on the schedule specified in the advisory agreement. Accounts may be held at the following custodians: Pershing LLC, Schwab, Fidelity Institutional Wealth Services ("Fidelity"), or TD Ameritrade, Inc. ("TD Ameritrade"). The custodian provides account statements directly to the Client. KMS urges Clients to promptly review all such account information.

Accounts may be traded on a discretionary or nondiscretionary basis, as specified in the advisory contract. Accounts will incur transaction fees which will vary depending upon the type of investment and the custodian. Services are offered under an Asset Management Advisory Agreement.

**Interval Funds:** Financial Professionals may offer interval funds through advisory accounts. Interval funds are closed-end funds that allow investors to diversify their portfolios and to invest in alternative products that would normally have limited availability to retail investors. Interval funds are illiquid and repurchase offers are made only on a periodic basis, such as quarterly. During the liquidation event, an investor may be able to redeem only a small portion, or none, of the shares they own. Risks for interval funds can be greater and different than for other investment products. Interval funds are not eligible for discretionary trading. You should carefully read the prospectus for information about the material risks with these funds and other disclosures before making a decision to invest. The fund prospectus will be available either through your Financial Professional or through the sponsor.

Management fees will be charged in your advisory account based on the value of these investments. Because redemptions and repurchases are limited to specific liquidation periods, you will be able to implement any advice only during the liquidation period. This creates a conflict of interest as the Financial Professional will receive fees for this advice before it can be implemented. KMS monitors and addresses this conflict of interest through ongoing account monitoring.

**Securities-Based Lending:** Currently KMS Advisors may offer the LoanAdvance Lending Program, a securities-backed lending program available through Pershing LLC in which your advisory account held at Pershing is used as collateral for an extension of credit for a purpose other than to purchase, carry or trade in securities, e.g., the purchase of a house. A variable interest rate is charged on the monthly debit balances which will be added to the opening debit balance for the next interest period if not paid. If the value of the securities held in the account declines below the maintenance level determined for the account, clients may be subject to a maintenance call to post additional collateral. If a client is unable to do so, securities in the account may be liquidated to satisfy the call.

These loans have a number of advantages and risks which should be considered before opening the account. Advantages include the flexibility of spending while at the same time receiving the benefits of the holdings in the collateral account such as dividends, interest and the potential appreciation of the securities. The risks to these loans are discussed in Item 8 below.

Your Financial Professional is not compensated directly for your participation in the Program; however, because the Advisor will continue to receive compensation for managing the assets in the advisory account, this creates a conflict of interest as the Advisor is incentivized to encourage clients to keep the securities invested and to borrow funds instead of liquidating the securities to address the current need. KMS mitigates this conflict by this disclosure to you. We encourage you to discuss this with your advisor before initiating the loan, to determine whether, considering the advantages and risks related to this program, it is in your best interest to participate.

**KMS as Sub Advisor to other Registered Investment Advisors:** On occasion KMS may be engaged to provide Sub Advisor investment advisory services, research and advice to another Registered Investment Advisor ("RIA"). In such event, that RIA's clients will be engaged by such independent RIA through its own client advisory services agreement and KMS is engaged by the independent RIA only.

Assets with **Schwab Managed Account Select Program** are charged a program fee (Wrap Program) as detailed in the Schwab Managed Account Select application and agreement. Assets with **Schwab Managed Account Marketplace Program** are charged separately by Schwab for brokerage and custody services, and by the Money Manager as detailed in the Advisory Agreements. In both programs a separate fee is charged by KMS for portfolio monitoring and consulting. With written notice, Clients may terminate these contracts at any time. Services are offered under Advisory Services Agreement/Schwab Managed Account Program.

Assets with **TD Ameritrade Institutional Managed Account Placemark Programs** are charged a program fee as detailed in the TD Ameritrade Placemark application and agreement. Accounts will be managed through a variety of investment options which are selected by the Client based on their investment objectives, time horizon, income needs and risk tolerance. Assets with TD Ameritrade Managed Account Placemark Program are charged separately by TD Ameritrade for brokerage and custody services and by the Money Manager through Placemark as detailed in the Advisory Agreements. For this program a separate fee is charged by KMS for portfolio monitoring and consulting. With written notice Clients may terminate these contracts at any time. Services are offered under Advisory Services Agreement/Placemark Account Program.

**Sub Advisors:** KMS has agreements with other Registered Investment Advisors to provide KMS Clients with investment advisory services, research, and advice. KMS remains the Client relationship manager and investment advisor. Services are offered through the appropriate KMS advisory agreement. Sub Advisors generally manage such accounts on a discretionary basis. Clients under Sub Advisor relationships receive statements from the various custodians who hold the accounts as well as reports from the Sub Advisor.

Clients entering into a Sub Advisor relationship through KMS should receive the Sub Advisor's Brochure. KMS encourages Clients to thoroughly review these documents. Clients may also review information on the Sub Advisors via the SEC's web site, [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

**Affiliated Products and Services:** Certain products and services of affiliates are available through KMS.

**Alternative Strategies Fund:** Ladenburg Thalmann Asset Management ("LTAM") is the investment adviser to the Alternative Strategies Fund (LTAFX, LTCFX). The Alternative Strategies Fund ("the Fund") is a closed end interval fund that incorporates quality alternative products and allows Clients to access these investments with lower minimums and no accreditation. The Fund's investment objective is to seek attractive risk-adjusted returns with low to moderate volatility and low correlation to the broader markets through a concentrated multi-strategy alternative investment approach with an emphasis on income generation. Ladenburg Thalmann & Co. Inc. ("LTCO") is also the distributor of the

Fund and may receive commissions when executing trades on behalf of the Fund.

The Fund is comprised of a diversified portfolio of alternative investments in more than ten asset classes, including real estate investment trusts (REITs), master limited partnerships (MLPs), managed futures, equipment leasing, among others. Risks for interval funds and funds that invest in alternative strategies can be greater and different than for other investments. For information about the material risks associated with the Fund's investment strategies, and other disclosures, see the Fund's prospectus. Prospectuses are available at [www.ltafx.com](http://www.ltafx.com) or by contacting the Fund administrator at (877) 803-6583.

### **Ladenburg Funds**

LTAM is the investment adviser to five funds collectively called the "Ladenburg Funds." The five Ladenburg Funds are Ladenburg Income Fund, Ladenburg Income & Growth Fund, Ladenburg Growth & Income Fund, Ladenburg Growth Fund, and the Ladenburg Aggressive Growth Fund. Each of the Ladenburg Funds is an open end fund of funds that primarily invests in a combination of equity, fixed income and alternative strategy exchange traded funds ("ETFs"), exchange traded notes ("ETNs") and mutual funds (together, "Underlying Funds" or "Fund(s)"). Funds that invest in alternative strategies can carry greater and different risks than funds that don't. Please see the prospectus for further details. The Funds employ the same investment strategies and features as the ones LTAM employs in managing separate client accounts in the Ladenburg Asset Management Program ("LAMP").

Each Fund will have substantially the same investment objective, policies and strategies as its corresponding separate account strategy. The Funds' fees may be more or less than the fees and expenses associated with the separate accounts managed by LTAM in LAMP. The Funds' results will differ from that of the separate accounts in LAMP managed in a similar strategy because of differences in future behavior of the various investment markets, brokerage commissions, account expenses, the size of positions taken in relation to account size and diversification of securities, and the timing of purchases and sales, among other things. The Ladenburg Funds offer A, C, and I share classes in each Fund. Ladenburg Thalmann & Co. Inc. is the distributor of the Funds and may also receive commissions when executing trades on behalf of the Funds. There may be a conflict of interest when LTAM or its affiliates recommend any of the Ladenburg Funds.

Information about the Ladenburg Funds and the services LTAM provides to them can be found in Funds' prospectus. Prospectuses are available at [www.ladenburgfunds.com](http://www.ladenburgfunds.com) or by contacting the fund administrator at (877) 803-6583.

**Ladenburg American Funds® Core Portfolios:** LTAM's Ladenburg Asset Management Program ("LAMP") manages the Ladenburg American Funds® Core Portfolios. Accounts utilizing these strategies will have a target allocation of 63% American Funds mutual funds, 35% Ladenburg mutual funds and 2% in cash. LTAM will evaluate the portfolios for rebalancing back to the target allocation at least annually or based on extreme market conditions. The mutual funds that are selected for these strategies are within the universe of American Funds mutual funds and based on due diligence conducted by LTAM on a variety of performance measures. LTAM periodically reviews each strategy to remove or replace those mutual funds that no longer meet the qualifications necessary for inclusion in the strategies. Because fund expenses will vary, what clients pay will not, and LTAM controls the allocation to the mutual funds and rebalancing used within the strategy, this represents a conflict of interest. KMS monitors and addresses this conflict of interest through client disclosure and ongoing account monitoring.

**Ladenburg Thalmann High Income Portfolio (Unit Investment Trust):** LTAM provides a recommended list of securities to First Trust Portfolios, L.P. (First Trust), the sponsor of the Ladenburg Thalmann High Income Portfolio, a unit investment trust (UIT). The UIT's objective emphasizes income generation through non-traditional yield sources such as REITs, business development companies (BDCs), and MLPs. The portfolio is made up of individual securities, closed



end funds, exchange traded funds (ETFs) and/or BDCs.

**The Ladenburg Total Portfolio Series (Collective Investment Trusts):** LTAM is the investment adviser to The Ladenburg Thalmann Total Portfolio Series which is a series of collective investment trusts ("CITs"). The CITs are a series of five portfolios established for qualified retirement plans, such as 401(k) plans and profit sharing plans. The portfolios are generally comprised of ETFs which closely mimic LTAM's traditional LAMP ETF models. The CITs are maintained by a bank trust, and are offered in two share classes, Advisory and Investor.

**LTAM Sponsored Programs:** LTAM also provides advisory services through several LTAM-sponsored programs, including: Ladenburg Asset Management Program ("LAMP"), the Investment Consulting Services ("ICS") Program, and Plan Sponsor and Plan Participant Services. Under these programs, Clients generally pay a single fee that covers both advisory services provided by LTAM and brokerage services provided by its affiliated broker-dealers, including KMS and through Schwab, Fidelity and TD Ameritrade. KMS, as broker-dealer, receives a portion of the wrap fee, as does the KMS Advisor servicing the account. As described above in the section "Ladenburg American Funds® Core Portfolios," LTAM utilizes Ladenburg Funds within this strategy which represents a conflict of interest. KMS monitors and addresses this conflict of interest through client disclosure and ongoing account monitoring.

#### **LTAM SYMBIL Solicitor Program**

In exchange for referring clients to the SYMBIL service, LTAM may pay a fee to individuals who are associated with one of LTAM's affiliated broker-dealers or registered investment advisors. In some cases, the recipient of a referral fee may also be an LTAM-affiliated investment adviser or an independent investment adviser or an individual associated with an affiliated or independent investment adviser. Such fees, which are payable only where a referred client chooses to invest in one of the recommended Ladenburg Funds, are a portion of the fee LTAM receives for managing the chosen Fund. In some cases, the referral fee is paid through the solicitor's registered broker-dealer or registered investment adviser. The referral fee arrangement between LTAM and the affiliated solicitor will be disclosed to the client upon entering the SYMBIL website.

**Third Party Advisors:** Third Party Advisors provide various services described in their marketing materials and contracts. A KMS Financial Professional may recommend a Third Party Advisor and/or may recommend a particular investment objective or category offered by that Third Party Advisor. In some Third Party Advisor programs the KMS Financial Professional acts as a solicitor and works with the client to determine whether to refer the Client to the solicitor for advisory services. The Third Party Advisor will provide money management services and reporting. Clients receive statements from the various custodians who hold their account(s). Clients entering into a Third Party Advisor relationship through KMS should receive the Third Party Advisor's Brochure. KMS encourages Clients to review these documents. Clients may also learn more about the Third Party Advisor via the SEC's web site [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## **Item 5 – Fees and Compensation**

In the course of providing advisory services to Clients, KMS and the Financial Professional receive advisory fees as described in the relevant advisory contract. LTFS and/or KMS may receive additional compensation as described in Sections 12 and 14.

**Financial Planning and Consulting Services Fees** are charged as an hourly fee, project fee or ongoing annual consulting fee depending upon the complexity of the Client's financial situation or the level of services desired. Fees may be partially or fully payable in advance, with the balance payable upon delivery of the plan (if applicable) or completion of the agreed service(s). Fees are negotiable depending upon services offered by the Financial Professional.

**Retirement Plan Consulting Fees** are negotiable depending upon services offered by the Financial

Professional. Fees are payable as described in the relevant advisory agreement. With written notice, Clients may terminate the advisory agreement at any time and receive a full pro-rata refund of unearned fees.

**KMS Financial Professional Asset Management Services Fees** may be negotiated but are generally based at or below the following schedule.

Portfolio Monitoring and Consulting Services

Portfolio Assets Valued at:      Annualized Fee

On the first \$100,000	1.75%
On the next \$150,000	1.50%
On the next \$250,000	1.25%
On the next \$500,000	1.00%
On amounts over \$1,000,000	0.75%

In some instances, an Advisor may engage in more complex investment strategies involving additional resources, research and/or costs. When such services are provided, the fees may be negotiated higher as follows:

Portfolio Assets Valued At:      Annualized Fee

On the first \$100,000	2.75%
On the next \$150,000	2.50%
On the next \$250,000	2.25%
On the next \$500,000	1.50%
On amounts over \$1,000,000	1.25%

Portfolio Monitoring and Consulting fees are generally calculated and payable quarterly, in advance, based on the portfolio value as of the last business day of the prior time period. Some contracts call for different billing cycles (monthly, semi-annually or annually) and/or charge in arrears, that is, at the end of the billing cycle. KMS will deduct the fee from the account or, depending upon the custodial platform, the Client may be issued an invoice and remit check payment. With written notice, Clients may terminate these contracts at any time and receive a full pro-rata refund of unearned fees. Fees are negotiable and may be higher or lower than the standard schedule depending upon services provided by the Financial Professional. Individual Financial Professionals may impose a minimum account size and/or minimum fee. Services are offered under an Asset Management Advisory Agreement.

KMS and its Financial Professionals charge investment advisory fees to manage assets as detailed in investment advisory agreements. Financial Professionals will recommend and purchase mutual funds or exchange traded funds in advisory accounts. To the extent Clients own these funds, Clients will incur KMS advisory fees along with those advisory fees borne by the fund as disclosed in the fund's prospectus. Clients also incur brokerage and transaction costs, in addition to any advisory fee, unless a wrap account is chosen. (Please also see Item 12, discussing brokerage practices.) Information on brokerage and transaction costs is made available by each custodian (broker-dealer). For advisory accounts held at Schwab, TD Ameritrade or Fidelity, KMS is not the broker-dealer and neither KMS nor the Financial Professional receives 12b-1 fees ("Trails") or any portion of commissions or transaction charges for accounts custodied with Schwab, TD Ameritrade, or Fidelity. However, KMS and LTFS may receive marketing allowances and revenue sharing from the Partners Program mutual fund companies. These amounts are not shared with the KMS Financial Professional making recommendations or managing the account, but in some cases may reduce transaction charges to clients for accounts held with KMS as the broker-dealer.

As noted above, KMS Financial Professionals offer investment advisory accounts custodied at three other broker dealers: Schwab, TD Ameritrade and Fidelity. Some mutual funds pay trails and some do not. Within

KMS advisory accounts held at Pershing, to the extent a mutual fund pays trails, such revenue will be credited to Pershing. KMS has instructed Pershing to pay such trails back into the advisory account that generated the revenue.

When providing Portfolio Monitoring and Consulting for ERISA plan accounts, KMS reduces the advisory fee by any trails received, credits such amounts back to the account, or considers the trails received when calculating the advisory fee due.

Financial Professionals may provide advisory services for variable annuity sub accounts. Depending on the product, KMS and the Financial Professional may receive 12-b1 fees and/or commissions. Receipt of these fees will offset the advisory fee charged for that account. In no event will the annual fee to be paid by the Client be greater than the advisory fee set forth in the account agreement. KMS may rely on the valuation determined by the third party sponsor to calculate the fees to be charged.

**KMS as Sub Advisor to Other Registered Investment Advisors:** In the event that KMS is engaged to provide Sub Advisor investment advisory services, research and/or advice to an independent Registered Investment Advisor ("RIA"), KMS will receive compensation based on a percentage of the assets under management for which KMS is providing advisory services, payable quarterly in advance. Clients of the independent RIA receiving KMS Sub Advisor advisory services which terminate the services of the independent RIA will receive a pro-rata refund of unearned fees through a refund to the independent RIA.

**Sub Advisor Fees:** In addition to the KMS fee arrangement, Sub Advisors charge separate fees for the services provided. Fees are determined by agreement with each Sub Advisor and may either be (1) included in the total fee agreed to in the KMS Advisory Agreement and then shared with the Sub Advisor or (2) set forth in a separate addendum to the KMS Agreement. With written notice, Clients may terminate these contracts at any time and receive a full pro-rata refund of unearned fees. Client and Financial Professional may agree to an adjustment in the fees.

**Affiliated Product Fees (12b-1, Affiliated Products and Principal Transactions):** Most KMS Financial Professionals are also securities registered with KMS. KMS may share a portion of payments received from a mutual fund, UIT, CIT, or in connection with an initial public offering, a secondary offering, and/or a private placement with KMS Financial Professionals. KMS and its Financial Professionals may also receive compensation, such as 12b-1 or services fees, in connection with the sale of funds or investments, including those managed by a KMS Affiliate, such as the Alternative Strategies Fund, Ladenburg Total Portfolio Series CITs, and Ladenburg High Income Portfolio UIT. Therefore, KMS and its Financial Professionals have an incentive to recommend these securities, which constitutes a conflict of interest. This conflict of interest is heightened when the Financial Professionals recommend securities where LTCO acts as underwriter because the Financial Professional typically receives more compensation in connection with these securities than in connection with other types of securities. Financial Professionals also have a heightened conflict of interest when recommending funds, CITs, and UITs that pay compensation, including the Alternative Strategies Fund, the Ladenburg Total Portfolio Series (CIT), or Ladenburg Thalmann High Income Portfolio UIT.

- **Fund Management:** The Alternative Strategies Fund pays LTAM a management fee quarterly in arrears which is equal to a maximum of 0.75% per annum of the assets in the fund. The Ladenburg Funds pay LTAM a management fee monthly in arrears, which is equal to a maximum of 0.50% per annum of the assets of the Fund. For more information, see the Funds' prospectuses.
- **CIT Management:** The Ladenburg Total Portfolio Series pays LTAM an investment management fee monthly in arrears which is equal to a maximum of 0.30% per annum of the assets in the CITs.
- **Ladenburg Thalmann High Income Portfolio (UIT):** In addition, KMS, as a broker-dealer affiliated with LTAM, and KMS Financial Professionals, will receive a portion of a dealer concession or agency commission in connection with units of the Ladenburg Thalmann High Income Portfolio UIT that they

sell, if those units are subject to a sales charge. A higher concession percentage will be received by KMS if certain total sales levels of the UIT are met, as set forth in the UIT prospectus. Although, KMS will not receive a concession on the sale of UIT units to KMS advisory accounts because the sales are not subject to a sales charge, units sold to advisory accounts will count towards these sales levels. Thus, KMS has a conflict of interest in recommending sales of the UIT. For a license to use the Ladenburg name and for providing a list of securities, LTAM receives a licensing fee of 0.10% per annum, which is based on assets raised within Ladenburg Thalmann High Income Portfolio (UIT) during the offering period.

- **Principal Transactions:** Clients may purchase securities through KMS in initial public offerings, and/or secondary offerings ("new issues"). If LTCO acts as an underwriter or manager or as a member of the selling group for such offerings, it will receive compensation equal to either all or a portion of "gross spread" (the difference between the price the Client pays for the security and the price at which LTCO purchased the securities). The advisory fee is not reduced to offset this new issue securities compensation. The amount of the gross spread is described in the relevant prospectus, offering circular or official statement.

Certain securities, such as over-the-counter stocks and fixed income securities are traded primarily in "dealer" markets. In such markets, securities are directly purchased from, or sold to, a financial institution acting as a dealer, or "principal." Dealers executing principal trades typically include a "mark-up," "mark-down," and/or spread in the net price at which transactions are executed. When KMS executes a transaction for a security traded in the dealer markets, KMS either will execute the transaction as agent through a dealer unaffiliated with KMS, or as principal in accordance with applicable law. In addition to any applicable commission or transaction fee, the Client will bear the cost (including any mark-up, mark-down, and/or spread) imposed by the dealer as part of the price of the security. Thus, KMS will receive compensation in connection with most principal trades. KMS Financial Professionals have a conflict of interest in using KMS to execute principal transactions because KMS and the Financial Professional will receive compensation in connection with the trade as dealer.

- **Affiliate Broker-Dealer or Advisory Fee Share:** KMS will receive a portion of the fee for supervision and administrative services, if a KMS Financial Professional is providing consulting services through an affiliate Wrap Program. If the broker-dealer for the account is KMS, KMS will also receive a portion of the affiliate Wrap Fee for the execution of transactions and generally pays part of its execution costs imposed by the custodian.

**Third Party Advisor Fees:** Third Party Advisors' fee schedules vary and are published in their own contracts and disclosure documents, including their respective Form ADV Part 2A Brochures. Fees are calculated and payable quarterly, either in advance or in arrears, depending upon the Third Party Advisor. With written notice Clients may terminate these contracts at any time, and, if fees were paid in advance, receive a pro-rata refund of any unearned portion. Depending on the Third Party Advisor, fees may be negotiable within pre-established limits.

**Schwab Institutional Intelligent Portfolios Program Fees:** As described in Item 4 Advisory Business, clients do not pay fees to SPT or brokerage commissions or other fees to CS&Co as part of the Program. Schwab does receive other revenues in connection with the Program. Brokerage arrangements are further described below in *Item 12 Brokerage Practices*. KMS charges an annualized fee as set forth in the Asset Management Agreement that is billed when the account is funded and continues every calendar quarter thereafter.

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

KMS does not have any performance-based fee structures or side-by-side management offered directly by KMS Financial Professionals. However, some Third Party Advisors available through KMS may offer performance-based fee structures as disclosed in their ADV and agreements. In situations where KMS

receives a portion of the asset management fee as disclosed in a solicitor arrangement, to the extent they include performance-based fees earned by the Third Party Advisor, KMS would be indirectly participating in performance-based fees. Information regarding any potential conflict of interest by offering performance-based fees is available in the Third Party Advisor's Brochure.

## **Item 7 – Types of Clients**

KMS Financial Professionals provide advisory services and investment advice to individuals, pension and profit sharing plans, trusts, estates, charitable organizations, businesses and government entities. ERISA Plan Clients are provided with disclosure documents, which provide information about KMS' qualifications, business practices and potential conflicts of interest that may be important for any ERISA Plan to consider. If you are a Named Fiduciary for an ERISA Plan and you have not received such disclosure documents, please contact your Financial Professional or KMS.

Eligibility for the Schwab Program includes clients who are individuals, IRAs and revocable living trusts. Clients that are organizations (such as corporations and partnerships) or government entities, and clients that are subject to the Employee Retirement Income Security Act of 1974 are not eligible for the Program. KMS requires a minimum investment of \$5,000 to open an account in this Program. The minimum account balance to enroll in the tax loss harvesting feature is \$50,000.

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

**Methods of Analysis & Investment Strategies:** Financial Professionals use various methods to determine an appropriate investment strategy for Client accounts. During a Client's initial and subsequent interactions, the Financial Professional will discuss the methods and strategies he or she uses or can use given various investment objectives. These methods and strategies are formulated by the Financial Professionals and not by KMS at the firm (home office) level. The analysis to be performed may include the following:

**Fundamental Analysis:** involves analyzing individual companies and their industry groups, reviewing earnings, financial statements, and the quality of a company's management. These factors are used to determine, along with the price of the stock, the relative value, strength and position of the company. See the general types of investment risk below.

**Asset Allocation:** Asset allocation investment strategies attempt to optimize the risk and reward profile of a portfolio (based on prior performance over various time frames) by investing among several asset classes. In addition to the general types of investment risks discussed below, this strategy is based on past performance, which is not indicative of future results.

**Timing Services:** Some Financial Professionals offer advisory services that attempt to time movements of various markets or investments. The intent with these strategies is to capture most if not all of a market upside while avoiding most if not all of a market downside. These objectives may not be achieved; in fact, over any given time period, performance may be less advantageous than staying fully invested or staying out of the markets completely. Many mutual funds and variable annuities prohibit excessive buying and selling within their account during a specified time period, which can affect the execution and performance of a strategy.

**Technical Analysis:** involves the study of price patterns and trends in the prices of securities (or index of securities) to attempt to predict future price trends. Factors such as trading volume, demand, and security price fluctuations may be considered. Past trends and patterns may not actually be indicative of future results.

**Cyclical Analysis:** this is a type of technical analysis that involves evaluating recurring price patterns and trends.

The Schwab Institutional Intelligent Portfolios are subject to various risks, including the risks of investing in ETFs, as well as risks related to the underlying securities in which ETFs invest. When electing to use the Program, neither you nor your Financial Professional maintain the ability to buy or sell individual securities

within the portfolio, or closely control the timing of purchases or liquidations. Instead, the program relies upon systematic rebalancing and models for ongoing management. Please elect a different platform if you or your Financial Professional have a specific need to control purchases and sales of individual securities.

**General Types of Investment Risk:** Investing in securities involves risk of loss that you should be prepared to bear. All investment programs have certain risks that are borne by the investor. Investors face the following risks:

**Asset Allocation/Strategy/Diversification Risks:** Asset classes may perform differently from each other over the short and long term. Depending on the asset allocation, differing performance may result in more portfolio concentration in certain asset classes which could reduce overall return if some assets underperform the Advisor's expectation.

**Interest-rate Risk:** Fluctuations in interest rates may cause investment prices to fluctuate. For example, when interest rates rise, yields on existing bonds become less attractive, causing their market values to decline.

**Market Risk:** The price of a security (stock, bond, mutual fund, etc.) may drop in reaction to tangible and intangible events and conditions. This type of risk is caused by external factors independent of a security's particular underlying circumstances. For example, political, economic or social conditions may trigger market events.

**Inflation Risk:** When inflation is present, a dollar today will not buy as much as a dollar next year because the purchasing power is eroded.

**Currency Risk:** Overseas investments are subject to fluctuations in the value of the dollar against the currency of the investment's originating country. This risk is also sometimes referred to as "exchange rate risk."

**Reinvestment Risk:** This is the risk that future distributions (or liquidation proceeds) from investments may have to be invested at a potentially lower rate of return. This risk primarily relates to fixed income investments (bonds), which might need to be reinvested at lower interest rate than the initial investment.

**Business Risk:** These risks are associated with a particular industry or particular company within an industry. For example, automobile companies are generally all subject to the same business risks that confront their industry.

**Concentrated Investment Risk:** Certain investment strategies may be concentrated in a specific sector or industry or individual security. If you invest in a portfolio or strategy that is made up of a concentrated position, sector or industry, your portfolio will be more likely to sharply increase or decrease in value with changes in the markets. Concentrated strategies are typically more volatile because the risk associated with each security represents a large percentage of your overall portfolio.

**Risks of Securities-Backed Lending:** When using your advisory account as collateral for a loan, there is a risk that account maintenance amounts and call times may be changed without notice or the value of the securities in the account may decrease resulting in an immediate need to add additional collateral to the account. If this need is not met, securities may be liquidated to cover the deficiency. The Client has no control over the timing of the liquidation or the particular securities that are sold which could result in a significant loss in the collateral account. Further, the interest rate charged may be changed without notice to you which may negatively impact the Client's ability to repay the loan as the increased cost accrues to the account. Clients should talk to their Financial Professional to determine whether the account strategy is still appropriate considering the potential need to meet liquidity needs in time of market volatility

## **Item 9 – Disciplinary Information**

Registered investment advisors are required to disclose all material facts regarding any legal or disciplinary

events that would be material to your evaluation of KMS or the integrity of KMS' management personnel.

As part of an examination in 2013, the SEC reviewed KMS' client disclosures surrounding its No Transaction Fee ("NTF") program and documentation practices around its best execution meetings. On July 19, 2017 the SEC found that prior to March of 2014, KMS had violated Sections 206(2), 206(4), and 207 of the Investment Advisors Act of 1940, and Rule 206(4)-7, by failing to disclose compensation received from its clearing broker-dealer (Pershing) related to the NTF program; that KMS did not conduct sufficient analysis to determine best execution for its clients as a result of reductions in certain transaction charges in 2014 and 2015; and that KMS policies and procedures did not sufficiently address these issues. After the SEC's initial review, in 2014 and 2015, KMS modified its policies and procedures to address the concerns. KMS has also instructed Pershing to discontinue sharing FundVest revenue from the NTF program in its advisory accounts.

To settle this matter, without admitting or denying the SEC's findings, KMS consented to a censure, a cease-and-desist order from committing or causing further violations of these provisions, the payment of disgorgement of \$382,568.64 plus prejudgment interest, and a \$100,000 penalty.

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

This section contains information about our financial industry activities and affiliations. We provide information about the material relationships and arrangements we have with any related persons, including broker/dealers and investment advisors. We identify if any of these relationships or arrangements create a material conflict of interest with clients and discuss how we address these conflicts. "Related persons" are defined as entities that we control or control us or are under common control with us.

KMS is also a securities broker-dealer and as such sells securities products and services. Many KMS Financial Professionals are also licensed with KMS as securities representatives, which allows them to provide brokerage services to Clients by executing securities transactions. KMS Financial Professionals may also be licensed insurance agents appointed with various insurance companies. In their capacities as securities representatives and/or licensed insurance agents, KMS Financial Professionals may offer securities and insurance products and will receive compensation as a result of such transactions or services. This presents a conflict of interest because they have an interest in earning commissions that may be adverse to your interests. KMS monitors this conflict of interest through its broker-dealer supervisory and compliance review system.

KMS may provide forgivable loans to its Financial Professionals. The loans are intended to cover various miscellaneous expenses involved in transitioning business to KMS. The forgiveness is not tied to securities transactions made by Representatives or assets held in advisory accounts with KMS or any other custodian, but does require the Representative to maintain registration with KMS. The receipt of this benefit by the Representative creates a conflict of interest as it creates a financial incentive to maintain the registration with KMS and use accounts approved by KMS. KMS mitigates this conflict through this disclosure to you. We encourage you to discuss this with your Advisor before signing an advisory agreement to determine if the Financial Professional has received a forgivable loan and if an advisory relationship is appropriate given the particular situation.

KMS is a wholly owned subsidiary of Ladenburg Thalmann Financial Services Inc. ("LTFS") a wholly owned subsidiary of Advisor Group Holdings, Inc. (AGHI), which is owned primarily by a consortium of investors through RCP Artemis Co-Invest, L.P. an investment fund affiliated with Reverence Capital Partners LLC. The consortium of investors includes, RCP Genpar Holdco LLC, RCP Genpar L.P., RCP Opp Fund II GP, L.P. and the Berliniski Family 2016 Trust.

### **Other Affiliated Broker-Dealers and Investment Advisors**

KMS has the following affiliates, which are wholly-owned subsidiaries of Ladenburg Thalmann Financial Services Inc. (LTFS), which is a wholly-owned subsidiary of Advisor Group Holdings, Inc.

Ladenburg Thalmann Financial Services, Inc. (LTFS) Holding Company	100% owned by AGHI
Securities America Financial Corporation (SAFC) Holding Company	100% owned by LTFS
Securities America, Inc. (SAI) Broker/Dealer	100% owned by SAFC
Arbor Point Advisors, LLC (APA) Registered Investment Advisor	Majority owner SAFC
Ladenburg Thalmann Asset Management, Inc. (LTAM) Registered Investment Advisor	100% owned by LTFS
Ladenburg Thalmann & Co., Inc. (LTCO) Broker/Dealer	100% owned by LTFS
Ladenburg Capital Agency Inc. Insurance Company	100% owned by LTFS
Ladenburg Thalmann Alternative Inc. Investment Advisor (exempt from registration)	100% owned by LTFS
Triad Advisors, LLC Registered Investment Advisor, Broker/Dealer & Insurance	100% owned by LTFS
Triad Hybrid Solutions, LLC Registered Investment Advisor	100% owned by LTFS
Highland Capital Brokerage Insurance Company	100% owned by LTFS
Investacorp, Inc. Broker/Dealer	100% owned by LTFS
Investacorp Advisory Services, Inc. Registered Investment Advisor	100% owned by LTFS
SSN Advisory, Inc. Registered Investment Advisor	100% owned by LTFS
Premier Trust, Inc. Trust Company	100% owned by LTFS
Securities America Advisors, Inc. (SAA) Registered Investment Advisor	100% owned by LTFS
Securities Services Network, LLC Broker/Dealer	100% owned by LTFS
Valor Insurance Agency, Inc. Insurance Company	100% owned by LTFS



KMS also has related persons, as they are under common control of LTFS's parent company, AGHI. KMS' affiliates below and your Financial Professional cannot conduct or recommend business through these related persons, these relationships do not create a material conflict of interest. The following chart details the related persons, which are wholly owned subsidiaries of Advisor Group, Inc. (AGI), which is a wholly owned subsidiary of Advisor Group Holdings, Inc.

Advisor Group, Inc. (AGI) Holding Company	100% owned by AGHI
Royal Alliance Associates, Inc. (RAA) Registered Investment Advisor, Broker/Dealer	100% owned by AGI
Financial Service Corporate (FS Corp) Holding Company	100% owned by AGI
FSC Securities, Corporation (FSC) Registered Investment Advisor, Broker/Dealer	100% owned by FS Corp
SagePoint Financial Inc. (SPF). Registered Investment Advisor, Broker/Dealer	100% owned by AGI
Woodbury Financial Services, Inc. (WFS). Registered Investment Advisor, Broker/Dealer	100% owned by AGI
Vision2020 Wealth Management Corp. Registered Investment Advisor	100% owned by AGI

KMS Financial Professionals may recommend Premier Trust to provide trust and administrative services. Premier Trust provides full disclosure with respect to its trust and administrative services and related costs. KMS will receive 10% of the trust and administration fees Clients pay to Premier Trust for trust administration services. Receipt of this revenue by KMS, constitutes a conflict of interest. This conflict is mitigated by the fact that KMS does not share these fees with the Investment Professional who recommends the use of Premier Trust. Clients are not obligated to use Premier Trust for trust administration services.

KMS may execute trades on behalf of Clients who receive advisory services from LTAM. KMS receives compensation for these brokerage services.

KMS' affiliate, LTAM, owns 50% of Ladenburg Thalmann Fund Management, LLC, ("LTFM"), which is a registered investment adviser. LTFM is an adviser to an open-end registered investment company, the Boyar Value Fund, Inc. This fund is an open-end diversified management investment company. LTAM is the distributor of the fund. KMS Financial Professionals may recommend Clients invest in the Alternative Strategies Fund and Ladenburg Funds, for which LTAM acts as investment adviser, and LTAM acts as distributor. KMS Financial Professionals may recommend the Ladenburg Thalmann High Income Portfolio or the Ladenburg Total Portfolio Series. If a Client purchases such securities, LTAM and KMS will receive compensation, which constitutes a conflict of interest.

As described in Item 4 (Advisory Business), LTAM manages Ladenburg American Funds® Core Portfolios which include a target allocation of 35% to affiliated mutual funds for tactical asset allocation purposes. LTAM, the manager of the Ladenburg Funds, does not receive any portion of the Wrap Fee. However, LTAM receives an internal management fee from the funds. LTAM is not affiliated with the American Funds.

Financial Professionals may also operate companies or offer services independent of KMS. These unaffiliated companies or services may include other investment advisory firms, accounting or tax practices, insurance services, pension consulting services, and legal services, among others. These independent products or services can create conflicts of interest insofar as they may create incentives for Financial Professionals to recommend those products or services. KMS routinely reviews these "outside businesses"

and also mitigates this conflict through Client disclosure. Clients should discuss these potential conflicts of interests with their Financial Professional to determine if an advisory relationship is appropriate given their particular situation.

KMS as an RIA has a material conflict of interest in using itself as Broker-Dealer. Please also see Items 4, 5, 12 and 14.

Neither KMS nor any of its management personnel is registered as a futures commission merchant, commodity pool operator, commodity trading advisor, or associated person of such entities.

### **Bank Deposit Sweep Programs**

Managed accounts custodied with Pershing have two core account investment vehicles that are used for settling securities transactions and holding credit balances. The Bank Deposit Sweep Program (BDSP) is one such core account investment vehicle and is used for eligible accounts other than advisory individual retirement accounts. The second, the Ladenburg Insured Cash Account Program for Brokerage Retirement Accounts (LICAP), is for available free credit balances in eligible advisory individual retirement accounts. Through either the BDSP or LICAP (the 'Sweep Programs' or the 'Sweep Program'), available cash in your account is deposited into interest-bearing deposit accounts at one or more FDIC-insured depository institutions ("Program Banks"). The list of Program Banks and current interest rates for Program deposits are available from your Financial Professional or at [https://www.kms.com/clients/bank\\_deposit\\_sweep\\_program.aspx](https://www.kms.com/clients/bank_deposit_sweep_program.aspx).

If you are eligible for either Sweep Program and you open an account, you authorize KMS to establish the BDSP or LICAP, as appropriate, as your core account investment vehicle. Your Financial Professional can assist you in determining whether your account is eligible for either Sweep Program. If your account is not eligible for either Sweep Program, we can provide you with access to other core account investment vehicles, including money market funds, to hold a cash balance awaiting reinvestment. Different core account investment vehicles can have different rates of return, different terms and conditions, different levels of risk and may or may not offer insurance such as FDIC insurance or SIPC (Securities Investor Protection Corporation) protection. For more information on FDIC insurance, please consult [www.FDIC.gov](http://www.FDIC.gov). For information regarding SIPC coverage, see [www.sipc.org](http://www.sipc.org).

The Sweep Programs create financial benefits for our firm and our affiliates and for Pershing. Our firm will receive a fee from each Program Bank in connection with the respective Programs, based on the value of the cash in the program. We will also pay a fee to Pershing. Our fee will reduce the amount of interest that clients receive in connection with cash held in their accounts and is in addition to the advisory fee that we receive with respect to the assets in the Sweep Program.

These financial benefits create a conflict of interest and an incentive for us to recommend that clients hold cash in the Sweep Program in circumstances where we earn more money from recommending you maintain a Pershing account instead of an account with a different custodian or a non-brokerage option. We mitigate this conflict through this disclosure to you, through making available other custodial options, and by not sharing the associated revenue from the Sweep Programs with the Financial Professionals who recommend Pershing brokerage accounts.

If you do not wish to use the applicable core account sweep vehicle, we will not be able to maintain your account. You are not obligated to use any of our managed accounts and can select a managed account at another broker-dealer where similar programs may not exist. However, you would lose the benefit of having your account managed by your Financial Professional and KMS.

The revenue generated by us can be greater than revenue generated by sweep options at other brokerage firms and can be greater than other core account investment vehicles currently available to you or possible core account investment vehicles we have used in the past or may consider using in the future.

For more information, see the disclosure document available through an Advisor or at: [https://www.kms.com/clients/bank\\_deposit\\_sweep\\_program.aspx](https://www.kms.com/clients/bank_deposit_sweep_program.aspx)

The maximum amount of FDIC insurance coverage for your combined deposits in either Sweep Program is up to \$1.5 million (for an individual account) or up to \$3 million (for a joint account), subject to the total amount on deposit in an account, applicable FDIC rules, and Bank availability. Funds deposited through the Sweep Programs are not eligible for SIPC coverage. Any deposits you maintain in the same insurable capacity, outside of the Programs but with a Sweep Program Bank, are aggregated with your Sweep Program deposits for purposes of determining the maximum applicable FDIC deposit insurance. Withdrawals from your Sweep Program deposits will normally be made on the business day the funds are required for transactions in your Brokerage Account. However, as required by federal banking regulations, each Sweep Program Bank has reserved the right to require seven (7) calendar days prior notice before permitting a withdrawal of any Sweep Program Deposits. You are responsible for monitoring the total amount of your deposits with each Sweep Program Bank to determine the extent of FDIC deposit insurance coverage available to you. If you are eligible to participate in the Sweep Program, you can expect to receive the appropriate Program disclosure document when you establish your account, which you should review carefully.

The BDSP interest rate payable to you is based on the amounts paid by the Program Banks to us less a fee retained by us. The retained fee for the BDSP may be up to 3% on an annualized basis as applied across all deposit accounts and will reduce the interest paid to your account. The fee received from Program Banks may be modified. If it exceeds 3% we will notify you of this change.

For cash held in the ICAP, a level administrative fee is applied each month to advisory IRAs for administrative services performed in operating the program. The level account fee is predetermined by formula, as stated in the ICAP Disclosure Document, and we cannot earn income in excess of the stated level account fee (currently \$23). The aggregate interest generated by banks participating in the ICAP is used to pay the level account fee for each individual client and to pay any third-party vendor fees. All interest left over after these payments is then credited to client accounts in the Program. A detailed explanation of the method for calculating interest and fees is available in the ICAP Disclosure Document, which is available from your Financial Professional or on the KMS website at [https://www.kms.com/clients/bank\\_deposit\\_sweep\\_program.aspx](https://www.kms.com/clients/bank_deposit_sweep_program.aspx).

## **Item 11 – Code of Ethics and Personal Trading**

Like any SEC-registered investment adviser, KMS maintains an Investment Advisory Code of Ethics based on KMS' fundamental duty to place the interest of our Clients first at all times. KMS Financial Professionals acknowledge in writing that they will follow KMS' Code of Ethics. For a copy of the Code of Ethics, please contact KMS or your Financial Professional.

### **In summary, KMS' Code of Ethics requires Financial Professionals to:**

- (1) follow ethical standards of conduct, which includes providing investment advice that is consistent with your stated investment objectives, financial needs and circumstances;
- (2) safeguard your confidential information; not engage in fraudulent, deceptive or manipulative conduct;
- (3) not recommend a securities transaction without disclosing significant conflicts of interests;
- (4) comply with certain trading policies on Personal Securities Transactions, which, in general: (a) prohibit an Advisor from trading a security before a Client; and (b) prohibit an Advisor from opening or having a personal securities trading account without prior written KMS approval;
- (5) not act on or distribute material, nonpublic information; and
- (6) not participate in an initial public offering or private placement without KMS' prior written approval.

The fact that KMS or a Financial Professional may actually own the same security as one or more of their clients constitutes a conflict of interest. KMS monitors trading activity to ensure that clients are not disadvantaged relative to KMS or Financial Professionals when trading such securities.

## Item 12 – Brokerage Practices

KMS Advisory accounts may be held at the following custodians: Pershing LLC (“Pershing”), Charles Schwab & Co., Inc. (“Schwab”), Fidelity Clearing & Custody Solutions (“Fidelity”), or TD Ameritrade, Inc. (“TD Ameritrade”). All custodians assess transaction-related charges for various services such as brokerage commissions, confirmation delivery, exchanges within a mutual fund family, and early redemptions. The costs can vary depending on a number of factors including but not limited to: type of security, transaction size, and trade entry method. To obtain the current trade and account fee schedules, contact your KMS Financial Professional.

When evaluating custodians to recommend to Clients, KMS Financial Professionals consider a number of factors including costs to Clients for brokerage and other services, and products and services custodians offer that will assist the Financial Professional in managing and administering Client accounts. While these products and services benefit KMS and its Financial Professionals, they may not necessarily benefit every KMS Client directly. Services and products that Financial Professionals actively consider and evaluate include but are not limited to: software and other technology that provide access to client account data (such as trade confirmations and account statements), facilitate trade execution (and allocation of aggregate trade orders for multiple accounts), provide research and market data facilitate KMS’ management fee payments from Client accounts, assist with back-office functions, and recordkeeping and Client reporting. Many of these services may be used to service all or a substantial number of KMS accounts, including accounts not maintained on the platform that provides the services. KMS Financial Professionals also evaluate services available that are intended to assist them in managing and developing their business enterprises. These services include consulting, practice management resources, information technology, business succession planning, regulatory compliance, and marketing.

Financial Professionals’ recommendations or requirements that Clients maintain their assets in accounts at a particular institution may be based in part on the benefit to the Financial Professional of the availability of some of the products and services listed above and not solely on the nature, cost or quality of the custody and brokerage services provided by the custodian which constitutes a conflict of interest. KMS monitors this conflict of interest through its compliance reviews of its advisory accounts. Clients are encouraged to discuss the choice of a custodian with their Financial Professional to determine if it is appropriate given their particular situation.

For advisory accounts custodied at Pershing, KMS acts a broker-dealer. As such, it determines and receives service charges for performing certain incidental services and transaction-related charges (commissions, confirmation and mailing fees) for executing securities trades. The service charge revenue KMS receives largely offset its direct costs and indirect costs of providing such incidental services. The transaction-related charges (commissions, confirmation and mailing fees) are set to only offset KMS’ direct costs from its clearing firm. KMS’ receipt of the service charge revenue and the possibility KMS may be able to negotiate its amount or KMS’ retention, constitutes a conflict of interest. To monitor and address this conflict of interest, KMS does not incentivize (or disincentivize) Financial Professionals to offer such services because they do not share in the revenue (or costs) associated with the services. Additionally, KMS reviews service activity, comparing it to account investment objectives and overall suitability. Clients retain overall control of their accounts including their choice of custodian and program.

KMS participates in Pershing’s FundVest® no transaction fee mutual fund platform which offers Clients no-load (and load-waived) mutual funds with a waiver of the standard transaction charge, subject to certain restrictions on short term trading. In lieu of transaction-based commissions, KMS is eligible to receive revenue based on the assets in the FundVest platform. However, KMS has elected to decline receipt of such FundVest revenue in advisory accounts. The fact that KMS is declining receipt of such revenue means KMS is providing trade execution services without direct compensation.

KMS is able to perform due diligence on a limited quantity of mutual fund products. KMS makes available mutual funds which have been approved through a due diligence criteria and is not inclusive of the entire mutual fund

universe.

KMS participates in the bank deposit sweep programs, noted above in Section 10. The receipt of revenue from this program constitutes a conflict of interest. It incentivizes KMS to recommend brokerage accounts through Pershing to obtain this revenue, rather than recommend a custodian based on your interest in receiving the most favorable execution. KMS addresses this conflict by not sharing the revenue it earns from these Sweep Programs with the Financial Professionals who recommend or maintain Pershing accounts through making alternative advisory custodians available for Financial Professionals to recommend and clients to select, through regular review of the various custodial options, and through this disclosure to you.

**Partners Program** - Broker dealers affiliated with LTFS, such as KMS, receive revenue sharing from certain partner product sponsors, such as mutual funds and variable annuities (hereinafter “Partners Program”). Receipt of such revenue constitutes a conflict of interest. KMS addresses this conflict by not sharing the revenue it receives through LTFS Partner Programs with the Financial Professionals who recommend or direct the trading, by monitoring all trading activity and related costs to Clients, and in some cases may reduce transaction charges to clients for accounts held with KMS as the broker-dealer.

Under the Partner Program, Strategic and Distribution Partners pay a flat annual fees, basis points on sales on assets, and/or a percentage of their fees. Payments made by the firms participating in the program are not paid or directed to any KMS Financial Professional who utilizes the services of these Program Partners.

For more information and a current and complete list of sponsors participating in the Partners Program, please go to the KMS website at [kms.com](https://kms.com), click on the ‘Account Services and Access’ tab and then ‘Fees and Commissions,’ and the ‘Compensation and Reimbursement of Expenses to Ladenburg Thalmann and Representatives’ or link to <https://welcome.kms.com/articles/compensation> or contact your Financial Professional.

**Best Execution:** KMS as an investment advisor seeks “best execution” for Client transactions. Based on these principles, KMS periodically reviews the totality of custodial service packages offered by the four broker-dealers (custodians) it currently uses: Pershing, Schwab, TD Ameritrade and Fidelity. The review includes but is not limited to: the technology trading platform, ancillary services, block trading capability, trade error resolution, service response time, reporting, commission and cost structures. Accordingly, while KMS does consider the costs of trading, not all transactions result in the lowest possible commission rates for Client account transactions. Also, for accounts held at Pershing with KMS as the broker-dealer, some conflicts of interest exist as described in Item 5 - Fees and Compensation, Item 12, Brokerage Practices and Item 14 - Client Referrals and Other Compensation.

As discussed in other portions of this document, in reviewing and approving certain brokerage platforms, retaining some ability to negotiate receipt of service related revenue, KMS has an incentive to recommend its brokerage platforms for advisory accounts, which constitutes a conflict of interest. KMS mitigates this conflict of interest through Client disclosure, and a regular review of Pershing as a primary brokerage platform with KMS as broker-dealer to assure the package remains competitive, given myriad parameters, and makes available competitive competing advisory platforms where KMS does not act as broker-dealer, review its activities, or negotiate its revenue.

Clients should consider that although KMS engages in analysis to offer high quality trading platforms to clients, it has chosen not to offer an unlimited number of platforms. The currently available platforms are disclosed within this brochure. In light of KMS’ limited approved trading platforms for KMS advisory accounts and the fact that only some of the approved trading platforms may accommodate the investment strategy recommended by the Client’s Financial Professional, Financial Professionals are limited in their ability to obtain the best execution price and lowest execution costs for each transaction or the product with the lowest internal expenses. Therefore, KMS recommends that Clients compare and discuss with their Financial Professional their anticipated trading patterns and costs and compare those to other non-KMS approved vendors. Clients may pay higher commissions or trade execution charges through the trading platforms approved by KMS

than through platforms that have not been approved by KMS as trading platforms for investment advisory accounts. Not all Investment Advisors restrict or limit the broker-dealer their clients can use and may permit them to select any broker-dealer.

**Share Class Selection:** In certain instances multiple share classes of the same mutual fund may be available for investment, with some share classes charging higher ongoing expenses and others with lower ongoing expenses, but may be subject to higher minimum purchase amounts or trading fees. In some cases brokerage and clearing transaction fees are waived when using the higher cost share class. KMS does not make available all share classes. When selecting a share class, you should discuss with your Financial Professional whether lower cost share classes are available and/or are appropriate given the expected holding period and the amount invested. Your Financial Professional may select or recommend a fund share class that pays additional compensation, or because it may reduce trading fees, even when you are eligible to own a lower cost share class. When KMS is acting as the broker-dealer some higher expense funds pay KMS additional compensation (Partner Program revenue sharing discussed above) which represents conflicts of interest. KMS addresses this conflict through disclosure, periodic review of account transactions, and making available only certain share classes.

**Trade Aggregation:** On some occasions, a Financial Professional will execute Client transactions on a block or aggregate basis. This involves entering one large trade and allocating shares among multiple Client accounts. This may facilitate more timely execution as well as a more equitable and efficient approach to achieving favorable price execution for a group of Clients. KMS allows each Financial Professional to choose to engage in block trading in a manner consistent with industry standards and KMS policies. Clients participating in any such block or aggregated transactions will receive an average share price on a pro-rata basis.

**Trade Allocation:** KMS' trade allocation policies and procedures call for fair and equitable allocation of trades among accounts with no particular Client(s) or groups of Clients being favored or disfavored. Generally a Financial Professional must identify a given block trade allocation before that trade is entered. If the trade is filled as entered, the Financial Professional must allocate according to the pre-determined block. If issues arise that prevent the allocation pursuant to the pre-determined block, the Financial Professional will seek KMS approval to allocate the shares in a fair and equitable manner and document the rationale for doing so.

**Trade Errors:** KMS has the responsibility to execute orders correctly, promptly, and in the best interest of its Clients. If an error occurs due to KMS or Financial Professional's action or inaction, KMS' will seek to promptly identify and correct such error without disadvantaging the Client(s) involved.

**The Schwab Program:** In addition to KMS' portfolio management and other services, the Schwab Program includes the brokerage services of CS&Co, a broker-dealer registered with the Securities and Exchange Commission and a member of FINRA and SIPC. While clients are required to use CS&Co as custodian/broker to enroll in this Program, the client decides whether to do so and opens its account with CS&Co by entering into a brokerage agreement directly with CS&Co. KMS does not open the account for the client. If the client does not wish to place his or her assets with CS&Co, then KMS cannot manage the client's account through the Schwab Program. CS&Co may aggregate purchase and sale orders for ETFs across accounts enrolled in this Program, including both accounts for KMS clients and accounts for clients of other independent investment advisory firms using the Program.

With respect to the Schwab Program, as described above under Item 4 Advisory Business, we do not pay SPT fees for the Platform so long as we maintain \$100 Million in client assets in accounts at CS&Co that are not enrolled in the Program. If we do not meet this condition, then we pay SPT an annual licensing fee of 0.10% (10 basis points) on the value of our clients' assets in the Schwab Program. In light of our arrangements with Schwab, we may have an incentive to recommend that our clients maintain their accounts with CS&Co based on our interest in receiving Schwab's services that benefit our business rather than based on the client's interest



in receiving the best value in custody services and the most favorable execution of transactions. This is a potential conflict of interest and we mitigate this through this disclosure to you. We also believe that our recommendation of CS&Co as custodian and broker is in the best interests of our clients. It is primarily supported by the scope, quality and price of CS&Co's services and not Schwab's services that benefit only us. We have adopted policies and procedures designed to ensure that our use of Schwab's services is appropriate for each of our clients where we recommend this Program.

### **Item 13 – Review of Accounts**

Depending on the nature of the advisory relationship, Financial Professionals review accounts at least quarterly, semi-annually, or annually to determine whether the positions, transactions, and strategies are consistent with the Client's stated investment objective(s). Financial Professionals may review accounts with each Client in person or by phone on an ongoing basis on a predetermined schedule based on each Client's preferences. Clients may request a review of accounts with the Financial Professional at any time. Additionally, market events may trigger a Financial Professional to conduct an account review and/or communicate with Clients. Periodically KMS Compliance Officers review a sample of accounts from each Financial Professional for consistency with stated Client objectives, risk tolerance, time horizon, etc.

Clients are provided with monthly or quarterly statements (in written or electronic format), depending on the activity in the account, directly from the qualified custodian. Statements will include information on Client holdings, balances, and account activity. Additionally, Clients will be provided with performance reports on a regular basis (quarterly, semi-annually, or annually), delivered in either written or electronic format. KMS urges Clients to read all statements and reports promptly.

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

**Client Referrals:** KMS has referral arrangements with financial institutions, such as banks or credit unions, under which they provide certain KMS Financial Professionals with referrals to potential Clients in exchange for a portion of the investment advisory fees and/or commissions KMS may earn from that potential Client. All investment recommendations and advice are provided by the KMS Financial Professional who will secure from each Client a written acknowledgement that the Client understands the respective roles of KMS and the financial institution.

**Other Compensation for Non-advisory Business:** As discussed in Item 10 – Other Financial Industry Activities and Affiliations, Financial Professionals may also recommend that a Client buy (or sell) a security or insurance product outside the context of the advisory account(s). If a Client decides to buy or sell a security or insurance product, KMS and the Financial Professional may be paid a commission (including mark-up or mark-down) on those transactions. In these circumstances, KMS and the Financial Professional would have a financial interest in the transaction which constitutes a conflict of interest. Generally the Financial Professional will disclose the amount of compensation at the time a recommendation is made by delivering the relevant prospectus or the equivalent. Clients are under no obligation to purchase securities or insurance products through KMS or the Financial Professional.

LTCO acts as a dealer with respect to certain securities, and as such, may execute transactions for KMS Clients as principal. As a dealer, LTCO may receive a "mark-up," "mark-down," and/or spread in the net price at which principal transactions are executed. This compensation is in addition to other compensation that clients pay to KMS and its affiliates under the Program. Thus, KMS has a conflict of interest in deciding to execute trades through LTCO on a principal basis. KMS addresses this conflict in the following ways. After receiving disclosures about a specific principal transaction with LTCO, Clients have the opportunity to reject the transaction before it is completed, to the extent required by applicable law. In addition, KMS has policies and procedures in place to assure that Clients receive best execution with respect to principal trades, regardless of whether the trade is executed by LTCO or an unaffiliated dealer (see Item 12 – Brokerage Practices).

KMS may also recommend that Clients invest in securities issued in an initial public and/or secondary offerings (“new issues”) for which LTCO acts as a manager, underwriter and/or a member of the selling group. KMS has a conflict of interest in recommending these securities for several reasons. First, KMS receives all or a portion of the gross spread (i.e. the difference between the price that the Client pays for the security and the price that KMS purchases the security for) in connection with such sales. This gross spread is generally 7%, but may be higher or lower in connection with certain offerings. KMS Financial Professionals generally receive a portion of this compensation as broker-dealer representatives of KMS. In addition, LTCO has a substantial interest, both financial and with respect to its reputation, in assuring that the offering is successful by having a large number of the securities purchased. Finally, in connection with certain offerings, LTCO has an obligation to purchase and resell a certain number of securities. Thus, because of its affiliation with LTCO, KMS has incentives to recommend these investments in these offerings for these reasons, rather than based on a Client’s needs. To address these conflicts, KMS has policies and procedures in place to make sure that securities in initial public offerings are recommended only to Clients for whom they are suitable given the Client’s investment objectives and assets. In addition, Clients are generally given transaction specific disclosure prior to the Client’s decision to invest in such securities. Securities acquired in initial public and secondary offerings may be oversubscribed and KMS has policies and procedures in place for the allocation process.

As discussed in Item 10 – Other Financial Industry Activities and Affiliations, Financial Professionals may also engage in other businesses outside of KMS and recommend that Clients purchase such a product or service outside of the context of the advisory account(s) (“Recommendations”). Such activities are disclosed to Clients via the Financial Professional’s 2B Brochure Supplement which is available from your Financial Professional or by contacting KMS. To the extent those Recommendations create compensation for a Financial Professional and involve using funds from the advisory account(s), the Financial Professional would have a financial interest in the transaction that may constitute a conflict of interest. KMS does not share in this compensation. KMS encourages Clients to ask their Financial Professional about this possible conflict before accepting any recommendations.

**Other Compensation in General:** KMS hosts several conferences for its Financial Professionals, discussing timely topics about products, services, investment strategies, KMS procedures, and practice management. Various sponsors attending the conference may pay KMS a fee, which helps defray a portion of KMS’ cost of hosting the conference and often generates net revenue to KMS for the event. This type of conference pricing is a typical practice in the industry. KMS, as a participant in LTFS Affiliates Partner Programs, will receive additional financial support for conferences from Partner Program mutual fund, variable annuity, third party advisors, non-traded product sponsors, as well as clearing firms and custodians. Further description of the LTFS additional compensation and reimbursement program sponsors is made available at [www.kms.com](http://www.kms.com). The direct or indirect receipt of such assistance constitutes a conflict of interest. KMS addresses this conflict by not sharing the revenue it receives through LTFS Partner Programs with the Financial Professionals who recommend or direct the trading, and by monitoring all trading activity and related costs to Clients.

Third party advisory firms, mutual fund, variable annuity or other product sponsors and custodians may offer KMS or KMS Financial Professionals financial assistance in the form of marketing reimbursements, complimentary or discounted technology platforms and/or due diligence trips. Marketing reimbursement allows a third party advisor to help Financial Professionals grow their client base. Marketing reimbursements are for documentable expenses and do not exceed the cost of the item. Third party advisors provide support for due diligence and educational trips to educate and train Financial Professionals (and KMS home office staff) about that firm’s services and tools. These reimbursements do not exceed the cost of attending the trip or meeting. Further, any technology (or technology support) provided is either a tool required for the Financial Professional to efficiently deliver the service under the advisory contract or it is merely a discount off the “retail” price of the particular technology which assists the Financial Professional in servicing Clients. The level of these forms of support is typical in the industry and modest relative to the total value of services rendered. Financial Professionals are prohibited from promoting or recommending any investment, including those issued by fund families, insurance carriers, or sponsors, over another based solely on additional payments or other considerations that might be received from the recommendation, sale or marketing of their products. Financial



Professionals are required to make recommendations to clients based on the clients' needs and objectives; however, receipt of such reimbursements creates an incentive by Financial Professional to recommend products that provide such assistance to them or payments to KMS (or LTFS). We encourage you to talk with your Financial Professional about any compensation they receive from product sponsors.

#### **Other Compensation on KMS Advisor Asset Management Accounts Held at Pershing**

For Advisory Asset Management accounts held at Pershing, KMS is also the broker-dealer of record and, in addition to the advisory fee specified in agreements with Clients, receives compensation associated with such accounts. This compensation is discussed above in Item 12-Brokerage Practices.

KMS participates in the bank deposit sweep programs, noted above in Section 10. This revenue constitutes a conflict of interest. KMS addresses this conflict by not sharing the revenue it earns from these Sweep Programs with the Financial Professionals who recommend or maintain Pershing accounts, through making alternative advisory custodians available for Financial Professionals to recommend and for clients to select, through regular review of the various custodial options, and through this disclosure to you.

For any Advisory Asset Management Accounts at Pershing that use margin (borrowing), KMS receives a portion of the margin interest charged for a Client's margin balance. KMS does not share revenue from margin interest with the Financial Professional. KMS' receipt of this margin interest is a conflict of interest. KMS mitigates this conflict of interest by reviewing each Client's application for margin to make sure it is consistent with their stated needs and objectives and financial situation. Additionally, when first applying for a margin account, each Client must acknowledge the risks and costs related to the use of margin.

For accounts held at Pershing, KMS will receive from Pershing a portion of the IRA maintenance fee Clients pay to Pershing, a portion of the confirmation fee on transactions as well as a portion of service fees for miscellaneous services, such as corporate actions, bond maturity, and wire transfers, etc. KMS discloses those charges annually on the Pershing account statement.

#### **Schwab Program**

KMS receives an economic benefit from Schwab in the form of the support products and services it makes available to us. These products and services, how they benefit KMS, and the related conflicts of interest are described above under *Item 12 Brokerage Practices*. The availability to KMS of Schwab's products and services is not based on us giving particular investment advice, such as buying particular securities for our clients.

#### **Item 15 – Custody**

According to SEC rules and regulations, KMS is deemed to have "custody" of Client investment advisory accounts. KMS has procedures to ensure all Client funds and securities are held at a qualified custodian (Pershing, Schwab, Fidelity or TD Ameritrade) in a separate account under that Client's name. Clients must establish any accounts in written documents and therefore are aware of the qualified custodian's name, address and the manner in which the funds or securities are maintained.

Qualified custodians send account statements directly to Clients at least quarterly. Clients should carefully review those statements promptly when received. When Clients have questions about their statements, they should contact their KMS Financial Professional or the qualified custodian. Clients may also receive reports regarding their accounts from their KMS Financial Professional. Clients are urged to compare any reports generated by the Financial Professional against the account statements sent by the qualified custodian. In accordance with SEC regulations, KMS is subject to an annual surprise verification examination, the purpose of which is to verify that the funds and securities of which KMS has custody actually exist and are located at the applicable qualified custodian. The annual surprise verification examination is performed by a third-party accounting firm that is not affiliated with KMS.

**Please note that payment for fees, securities and any other items cannot be made payable to a KMS**

**Financial Professional, their staff members or entities owned by the Financial Professional.** Payment for securities and for funding an account must be made payable to the account's qualified custodian or KMS. The qualified custodian for a KMS Client account will never be a KMS Financial Professional.

## **Item 16 – Investment Discretion**

Depending on the nature of the advisory relationship, a Client may decide to grant investment discretion to his or her KMS Financial Professional, Subadvisor, or Third Party Advisor. Investment discretion granted to a KMS Financial is limited to the selection of the securities to be bought or sold, the amount of the securities to be bought or sold and must be authorized in writing by the Client. A KMS Financial Professional may not exercise discretion on interval funds.

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

Unless Clients contract to have their Financial Professional vote proxies on their behalf, they retain the right to vote those proxies. Most KMS Financial Professional do not contract to vote proxies on behalf of their Clients. Clients that are voting their own proxies will receive those directly from the account custodian or a transfer agent. Any Client authorization granted to the Financial Professional to vote proxies must be on the applicable account application, contract, form or agreement. In such case, the Financial Professional will perform the necessary research regarding each issue, evaluate any costs involved, document the findings, and vote in the clients' best interests. If there are any conflicts of interest, these conflicts will be disclosed to the Client and Client consent will be received prior to the proxy vote being submitted. If the Client would like to direct the proxy vote on a particular issue, the Client should communicate their instructions to their Financial Professional timely, so that the Financial Professional can act upon those instructions. Clients may obtain a copy of the KMS Proxy Voting Policies and information as to how proxies were voted on their behalf upon request.

For information on the proxy voting policies for programs sponsored through other registered investment advisors, please refer to the Brochure for each advisor.

## **Item 18 – Financial Information**

KMS is required to provide Clients with certain financial information or disclosures about its financial condition. KMS has no financial commitment that impairs our ability to meet our contractual and fiduciary commitments to you, and KMS has not been, nor does it expect to be, the subject of a bankruptcy proceeding.