

# NextGen 529

## BROCHURE

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This Brochure provides information about the qualifications and business practices of Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPF&S” and “Merrill”) relating to the NextGen 529 Program. If you have any questions about the contents of this Brochure, please contact us at 800.MERRILL (800.637.7455).

Please note that the information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission (“SEC”) or by any state securities authority. Investment adviser registration does not imply a certain level of skill or training. Additional information about MLPF&S also is available on the SEC’s website at [www.adviserinfo.sec.gov/IAPD](http://www.adviserinfo.sec.gov/IAPD).

The investment advisory services described in this Brochure are not insured by the Federal Deposit Insurance Corporation (“FDIC”) or any other government agency, are not a deposit or other obligation of or guaranteed by MLPF&S, Bank of America Corporation (“BofA Corp.”) or any of its affiliates and are subject to investment risks, including possible loss of principal.

March 23, 2020

### MATERIAL CHANGES

On March 25, 2019, Merrill filed its last annual update for its NextGen 529 brochure (“Brochure” or “Disclosure Statement”). Set forth below is a summary of the material changes to this Brochure since that date. This summary of material changes is designed to make clients aware of information that has changed since the Brochure’s last annual update and that may be important to them. The material changes summarized below were also incorporated within this Brochure. Capitalized terms that are not defined in this Brochure have the meanings provided in the Glossary.

No material changes have been made since the last annual update was filed for this Brochure.

**TABLE OF CONTENTS**

<b>MATERIAL CHANGES .....</b>	<b>I</b>
<b>TABLE OF CONTENTS .....</b>	<b>II</b>
<b>ADVISORY BUSINESS.....</b>	<b>1</b>
NextGen.....	1
Wrap Fee Programs .....	2
Assets Under Management.....	2
<b>FEES AND COMPENSATION .....</b>	<b>2</b>
Calculation and Deduction of Advisory Fees .....	2
Other Fees and Expenses .....	2
Fees in Advance .....	2
Compensation for the Sale of Securities .....	2
Sources of Revenue.....	4
<b>PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT .....</b>	<b>4</b>
<b>TYPES OF CLIENTS .....</b>	<b>4</b>
<b>METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS .....</b>	<b>4</b>
Material Risks .....	5
<b>DISCIPLINARY INFORMATION .....</b>	<b>6</b>
<b>OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS.....</b>	<b>7</b>
Receipt of Compensation from Investment Advisers .....	8
<b>CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING.....</b>	<b>9</b>
Conflicts of Interest and Information Walls.....	9
Code of Ethics.....	9
Participation or Interest in Client Transactions.....	9
Investments in Securities by Merrill and Our Personnel .....	10
<b>BROKERAGE PRACTICES .....</b>	<b>11</b>
<b>REVIEW OF ACCOUNTS.....</b>	<b>12</b>
Client Reports.....	12
<b>CLIENT REFERRALS AND OTHER COMPENSATION.....</b>	<b>12</b>
<b>CUSTODY.....</b>	<b>12</b>
<b>INVESTMENT DISCRETION .....</b>	<b>12</b>
<b>VOTING CLIENT SECURITIES .....</b>	<b>13</b>
<b>FINANCIAL INFORMATION.....</b>	<b>13</b>
<b>GLOSSARY .....</b>	<b>14</b>

## ADVISORY BUSINESS

Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill,” “MLPF&S,” “we,” “us,” or “our”), an indirect wholly-owned subsidiary of Bank of America, is a global investment banking firm and a registered broker-dealer and investment adviser. Merrill offers a broad range of brokerage, investment advisory, retail and other services and has been registered with the Securities and Exchange Commission (“SEC”) as an investment adviser since 1978. This brochure relates to the investment advisory services provided by Merrill to the Finance Authority of Maine in connection with the Maine Education Savings Program (“NextGen”). Capitalized terms that are not defined in this Brochure have the meanings provided in the Glossary.

### NEXTGEN

NextGen is a Section 529 qualified tuition program administered by the Finance Authority of Maine (“FAME” or “you”). Merrill serves as the Program Manager and underwriter.

Pursuant to the terms of the Program Management Agreement (“PMA”) between FAME and Merrill, we and our affiliate, Financial Data Services, LLC (“FDS”), will perform certain administrative, recordkeeping and investment advisory services. Merrill will market and distribute NextGen. We and FDS are permitted to delegate certain of our responsibilities to our affiliates. We have delegated certain of our investment advisory responsibilities to Third Party Sub-Advisors who are Investment Managers that have entered into agreements with us.

We perform due diligence on the Investment Managers who manage the Portfolios available in NextGen. We recommend them to FAME and assist FAME in selecting Investment Managers that are appropriate to the Portfolios’ strategies. We monitor Investment Managers, including their performance, their investment selection and their investment strategies.

NextGen offers two programs to participants: the NextGen Client Direct Series (the “NextGen Direct Series”) and the NextGen Client Select Series (the “NextGen Select Series”). NextGen is available to individuals, custodial and trust accounts, tax-exempt organizations, and certain other entities. The NextGen Direct Series is also available to state and local governments. Participants in the NextGen Select Series make their investment decisions regarding the types of portfolios they would like to invest in with the assistance of Merrill Financial Advisors or Maine Distribution Agents acting in a brokerage capacity. Participants in the NextGen Direct Series invest directly in NextGen. Additional information about NextGen, including fees, expenses, sales charges and risks, and the services provided by Merrill and our affiliates, can be found in the NextGen Program Description and Participation Agreement that are each available through a Financial Advisor or at [www.nextgenforme.com](http://www.nextgenforme.com) and as previously delivered to you.

In addition to NextGen, Merrill offers a wide variety of investment advisory services. These include, but are not limited to, the following: Merrill Lynch Investment Advisory Program, Merrill Lynch Defined Contribution Investment Consulting Services, Merrill Lynch Fiduciary Advisory Services Program, Merrill Lynch Institutional Investment Consulting Program, Merrill Guided Investing, Merrill Guided Investing with Advisor, Merrill Edge Advisory Account, and Merrill Lynch Strategic Portfolio Advisor® Service. We also offer impersonal investment advice (general advice not tailored to the specific needs of any individual) in the form of publications or research. More information about these programs and services is contained in the applicable Merrill brochure (or MLPF&S Form ADV, Part 2A) and is available through the SEC’s website at <http://www.adviserinfo.sec.gov/IAPD>.

### WRAP FEE PROGRAMS

We do not make NextGen available through wrap fee programs.

### ASSETS UNDER MANAGEMENT

As of December 31, 2019, Merrill had assets under management of \$962.05 billion, of which \$289.19 billion was managed on a discretionary basis and \$672.86 billion was managed on a non-discretionary basis. These amounts do not include any assets in connection with NextGen.

### FEES AND COMPENSATION

Although, we do not receive compensation from Finance Authority of Maine, we do receive compensation for our program management services (including our investment advisory services) to NextGen which is bundled with overall compensation for all services provided to FAME. We are compensated for our sales and distribution efforts to participants in NextGen out of certain sales charges and ongoing compensation from the sub-advisers of underlying funds, underlying funds and/or other investments or the providers of such investments. The fee arrangement between us and FAME is individually negotiated and is set forth in our PMA with FAME. We receive compensation from Third-Party Sub-Advisors, portfolio investments or the providers of the Principal Plus Portfolio Investments of up to 0.30% of the average annual amount invested by the Portfolios in the Portfolio Investments.

### CALCULATION AND DEDUCTION OF ADVISORY FEES

Merrill and our affiliate, FDS, receive certain program management and portfolio servicing fees related to administrative, recordkeeping, investment, marketing and distribution services we perform related to NextGen. These fees are deducted directly from the NextGen portfolios and are calculated on assets as disclosed in the Program Description and Participation Agreement. Merrill may pay a portion of its program management fee or other compensation to FDS for acting as the portfolio servicing agent.

### OTHER FEES AND EXPENSES

FAME does not pay any fees or expenses in connection with our advisory services.

### FEES IN ADVANCE

FAME does not pay fees in advance.

### COMPENSATION FOR THE SALE OF SECURITIES

#### *Selling Compensation for Select Program:*

#### *A Class Units:*

We are compensated for our sales and distribution efforts out of the Initial Sales Charges on the A Class Units and ongoing compensation from the underlying funds and/or other underlying investments. With regard to the Principal Plus Portfolio and the NextGen Savings Portfolio, we do not receive up-front selling compensation on purchase of the A Class Units, but receive ongoing compensation only. Our Financial Advisors receive a portion of this compensation as disclosed in the NextGen Program Description and Participation Agreement.

### C Class Units:

We are compensated for our sales and distribution efforts out of the management fee on the C Class Units and ongoing compensation from the underlying funds and/or other underlying investments. Our Financial Advisors receive a portion of this compensation as disclosed in the NextGen Program Description and Participation Agreement. All C Class Units purchased will be automatically converted into A Class Units, not subject to an Initial Sales Charge, after five years from their respective dates of purchases.

Although the NextGen Select Series A and C class units provide different compensation to Financial Advisors, the unit class purchased is automatically determined at the time of the contribution based on NextGen plan rules described in the NextGen Program Description. Neither the advisor nor client is able to direct a purchase in a specific unit class. The Direct Series only offers one unit class. As a result, there is no conflict related to the unit class.

### *Selling Compensation for Direct Program:*

#### Direct Units:

We are compensated for our distribution efforts out of the management fee and ongoing compensation from the underlying funds and/or other underlying investments. Our Financial Advisors cannot offer these Units as these Direct Units are only offered in the Direct Series. Direct Series is only available to clients who are not working with a Financial Advisor. However, our Financial Advisors may assist clients in opening NextGen Direct Series accounts and are compensated by us for providing such assistance.

### *Other Compensation:*

With respect to ongoing compensation from the underlying funds, we receive certain payments from Third Party Sub-Advisors or from portfolio investments or the providers of the Principal Plus Portfolio investments for a variety of services with respect to NextGen assets invested in the underlying funds or Principal Plus Portfolio investments. We provide various sub-transfer agency and other related administrative services with respect to underlying funds positions. These services include, for example, processing purchases, redemptions, and exchanges, dividend reinvestments, consolidated statements, tax reporting, and other recordkeeping. We also provide a variety of marketing services and other support to Third Party Sub-Advisors. In consideration for these services, we receive compensation from Third Party Sub-Advisors, portfolio investments or the providers of the Principal Plus Portfolio investments to up to 0.30% of the average annual amount invested by the Portfolios in the portfolio investments.

The receipt of selling compensation gives us and our Financial Advisors an incentive to recommend investments based on the compensation received rather than based on a client's needs. Fees and commissions are higher for some products or services, and the remuneration and profitability to us and our Financial Advisors resulting from transactions on behalf of or management of certain accounts will be greater than the remuneration and profitability resulting from other advisory accounts, products or services. (See section entitled Participation or Interest in Client Transactions for more information about the receipt of compensation for the sale of securities and other investment products.)

We offer Mutual Fund Portfolios and iShares Portfolios. We receive more compensation on Mutual Fund Portfolios than iShares Portfolios. Investment recommendations which include mutual funds and iShares are constructed by various groups within Merrill as well as Third Party Sub-Advisors. The recommendations, including fee schedules, are presented to FAME and their independent investment consultant annually. Any recommendations presented to FAME will not be implemented without FAME's approval. As a result, this

conflict is addressed as FAME approves all investments in the NextGen Select Series and NextGen Direct Series during the recommendation process describe above.

### **SOURCES OF REVENUE**

As a broker-dealer, Merrill offers a wide variety of securities and brokerage services. Our principal sources of income, which include commissions and other compensation for the sale of investment products, are derived from our business as a broker-dealer. Less than 1% of our revenues are expected to be generated from NextGen on an annual basis.

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

Neither we nor our Financial Advisors receive performance-based fees for the investment advisory services we provide to FAME. However, since our program management and sub-advisory fees are tied to assets under management, as assets increase the corresponding fees we receive also increase.

### **TYPES OF CLIENTS**

Merrill's only investment advisory client in connection with NextGen is FAME. Merrill, as Program Manager of NextGen, does not provide investment advisory services to participants enrolled in NextGen.

### **METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

Merrill will draw upon analyses and strategies developed by various groups within Merrill and its affiliates, as well as third party sources. Through its affiliates and third party sources, Merrill uses various analyses in developing its recommendations including quantitative, fundamental, technical, strategic and economic analyses.

NextGen is considered a long-term investment vehicle. The NextGen Direct Series is designed to offer choice and flexibility with investment portfolios ranging from age-based portfolios, to static portfolios such as 100% equity and 100% fixed income, as well as the Principal Plus Portfolio and the NextGen Savings Portfolio as described further within this section. NextGen participants decide what options are appropriate for their risk tolerance and time horizon.

NextGen also offers the NextGen Select Series, an advisor-sold program through Merrill Financial Advisors and Maine Distribution Agents, that provides more investment options than are available in the NextGen Direct Series, as well as the professional assistance of a Financial Advisor, acting in a brokerage capacity, who will work with participants to help tailor their investment strategies toward their risk tolerance and investment timelines, and to help them achieve their college savings goals. The NextGen Select Series offers two separate Unit Classes each with its own fee and expense structure. With the exception of the NextGen Savings Portfolio and the Principal Plus Portfolio, all NextGen Portfolios are managed by various Third Party Sub-Advisors which are recommended by the Program Manager and approved by FAME. The investments of the NextGen Savings Portfolio and the Principal Plus Portfolio, which are described in more detail below, are not managed by a Third-Party Sub-Advisor but recommended by the Program Manager and chosen by FAME. Current Third Party Sub-Advisors within NextGen are American Century Investment Services, Inc. ("American Century"), BlackRock Investment Management, LLC ("BlackRock"), Franklin Templeton Investments ("Franklin Templeton"), Lord, Abnett & Co. LLC ("Lord Abnett"), Massachusetts Financial Services Company ("MFS"), Neuberger Berman LLC ("Neuberger Berman"), and New York Life Investment Management ("MainStay"). These Portfolios mostly invest in one or more mutual funds or exchange traded funds ("ETFs"). The ETFs within the NextGen Portfolios are similar to mutual funds, but are passively managed and tied to an index. They are traded throughout the day (unlike mutual funds that are priced once per day at the close of business). Some of these Portfolios also invest in the Cash Allocation Account.

NextGen's investment portfolios include:

### Age-Based Portfolios

These portfolios are designed to take into account the number of years until the participant's beneficiary attends college and the participant's risk tolerance and offer convenient, professionally managed, asset allocated portfolios that are more aggressive when the beneficiary is young and are automatically reallocated to be more conservative as the beneficiary nears college age.

### Diversified Portfolios

Diversified portfolios help participants spread their account holdings among many investments, thus potentially reducing risk. Generally, diversified portfolios hold investments in many types of funds and/or securities. For example, investments may span different sectors (such as bio-tech or utilities) and/or geographic regions (such as Asia or Europe).

### Single Fund Portfolio

A single fund portfolio is invested in one single underlying fund, and is a static investment.

### NextGen Savings Portfolio

The NextGen Savings Portfolio deposits 100% of its assets in the Bank Deposit Account, an interest-bearing omnibus Negotiable Order of Withdrawal account held at BANA in which deposits are FDIC-insured, subject to applicable limits. BANA is an affiliate of Merrill, and BANA will benefit from its use of the deposits. Neither FAME nor Merrill charge any fees, sales charges or receives compensation for the NextGen Savings Portfolio, but reserve the right to do so in the future. That portion of the underlying deposits in the Bank Deposit Account attributable to a Participant's Units held in the NextGen Savings Portfolio, together with other deposits the participant may have at BANA, is eligible for Federal Deposit Insurance Corporation ("FDIC") insurance up to a standard maximum amount, currently set at \$250,000 for a single ownership account, in accordance with the FDIC rules.

### Principal Plus Portfolio

The Principal Plus Portfolio invests in a guaranteed interest account (GIA) issued by an insurance company, corporate fixed-income investments, cash equivalents and/or similar instruments.

The asset allocations of the NextGen portfolios are recommended by the respective investment manager and approved by FAME. NextGen participants do not have any direct ownership interest in the underlying funds.

### MATERIAL RISKS

As mentioned previously, with the exception of NextGen Savings Portfolio and the Principal Plus Portfolio, the Program Manager recommends Third Party Sub-Advisors to manage all other NextGen Portfolios (Sub-Advisory Portfolios) and these Third Party Sub-Advisors are approved by FAME. On or before May 1 of each program year, the Program Manager shall deliver to FAME a proposed allocation recommended by each Sub-Advisor for each Sub-Advisory Portfolio that is either already in NextGen or being recommended to NextGen. Within the recommendation, the Sub-Advisor will disclose the rationale for their recommendation, any new funds being proposed which do not meet the PMA's Underlying Fund Performance Standards, any proposed benchmarks associated with the new funds and will also include disclosures surrounding risk of investing. Any recommendations delivered to FAME will not be implemented without FAME's approval.

In advance of implementing approved recommendations, NextGen participants will receive the NextGen



Program Description that discusses the NextGen portfolios available to them, the risks of investing in those portfolios and that all portfolios involve risk of loss. Participants should be prepared to bear such losses prior to investing.

After implementation of approved allocations and portfolio investments, on a quarterly basis the Program Manager will provide reports to FAME that summarize Fund Performance for the period, compare the performance relative to the Fund's benchmark and report on any of the underlying funds that have not met the PMA's Underlying Fund Performance Standard for two consecutive Program Performance Periods. Along with the delivery of the reports, the Program Manager will meet with FAME to discuss these results.

### DISCIPLINARY INFORMATION

The following is a summary of certain adverse legal and disciplinary events and regulatory settlements that may be material to your decision of whether to retain us for your investment advisory needs. Certain disclosures below relate to disciplinary events that occurred with predecessor firms, Banc of America Investment Services, Inc. ("BAI") and Banc of America Securities LLC ("BAS"), which merged with MLPF&S in the 2009-2010 time period. You can find additional information regarding these settlements in Part 1 of Merrill Lynch's Form ADV at: [http://www.adviserinfo.sec.gov/IAPD/Content/Search/iapd\\_Search.aspx](http://www.adviserinfo.sec.gov/IAPD/Content/Search/iapd_Search.aspx).

On August 20, 2018, the SEC announced that MLPF&S, without admitting or denying the findings, entered into a settlement related to willful violations of Sections 206(2) and 206(4) of the Advisers Act and Advisers Act Rule 206(4)-7. Specifically, the SEC's administrative order found: (1) a failure to disclose that the portfolio manager process employed in connection with a January 2013 termination recommendation was exposed to a conflict of interest (less than one-seventh (1/7) of 1% of total advisory accounts (approximately 1,500) were invested in the products subject to the termination recommendation); and (2) a failure to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act. In determining the appropriate sanctions, the SEC considered MLPF&S's remedial acts promptly undertaken and cooperation afforded the SEC staff. MLPF&S consented to the imposition of a cease-and-desist order, a censure, and disgorgement and a financial penalty totaling approximately \$8.8 million.

On May 25, 2018, the State of Maine Office of Securities ("Maine Securities") issued a Consent Order ("Order") in connection with Merrill Lynch's activities as distribution agent of Maine's NextGen 529 College Investment Plan-Client Select Series ("NextGen") and the fees associated with the different classes of units available to NextGen investors (Class A units and Class C units). The Order related to violations of certain Maine securities regulations relating (i) to recommendations made of Class C units of NextGen to investors for whom Class A units likely would have been less expensive over the investors' anticipated investment horizon given the age of the investors' beneficiaries, and (ii) for failure to reasonably supervise its agents and establish and maintain policies and procedures, and effective monitoring or other controls reasonably designed to ensure that its agents properly considered the beneficiaries' age, investment time horizon, and relative expense of Class A and Class C units when representatives recommended NextGen. Merrill Lynch has undertaken to make financial remediation payments, which are estimated to total approximately \$18.9 million, to all Maine and non-Maine residents who purchased NextGen Class C units during a specified period ("Eligible Investors") through Merrill Lynch as distribution agent pursuant to a voluntary written plan submitted to the Maine Securities Administrator. Merrill Lynch has also agreed to make a payment in the amount of \$500,000 to the Maine Securities Investor Education and Training Fund; in recognition of Merrill Lynch's cooperation with Maine Securities, including its development of a voluntary plan of remediation, the Maine Securities Administrator has agreed to forgo the imposition of a civil penalty.

On June 16, 2014, MLPF&S, without admitting or denying the findings, entered into a FINRA settlement relating to its failure to have an adequate supervisory system to ensure that certain clients received sales charge waivers for purchases of certain mutual funds' Class A shares which affected certain retirement accounts and certain clients with a particular type of brokerage account. This settlement resulted from MLPF&S self-identifying certain of these issues. MLPF&S consented to the imposition of a censure and a fine of \$8 million and agreed to provide additional reimbursement to the agreed upon impacted clients and has

reimbursed all such impacted clients.

On June 21, 2012, MLPF&S, without admitting or denying the findings, entered into a FINRA settlement related to the following: (1) failure to have an adequate supervisory system around billing processes for certain investment advisory programs and, as a result, overcharging certain client accounts during the 2003-2011 time period (client accounts impacted were less than 5% of its total advisory accounts and the aggregate fee overcharge amount was less than ½ of 1% (approximately \$32 million) of the total advisory fees billed during that period); (2) failure to send contemporaneous or periodic trade confirmations to certain client accounts for ten investment advisory programs; (3) having inaccurate or incomplete trade confirmations for certain mutual fund transactions by failing to state trade capacity (agent or a principal) on trade confirmations and account statements; (4) failure to deliver (directly or through a vendor) proxy materials to certain clients or to their designated investment advisers and failure to have an adequate supervisory system to detect this failure (clients impacted constituted less than 1% of its clients during the relevant period); and (5) failure to send margin risk disclosure statements and/or business continuity plans to certain clients upon the opening of their accounts (clients impacted were less than 1% of its clients during the relevant period). In determining the appropriate sanctions, FINRA considered MLPF&S' internal review through which it identified the violations, the remedial measures that it took to correct its systems and procedures, and its efforts to provide remediation to affected clients. MLPF&S consented to the imposition of a censure and a fine of \$2.8 million. All overcharged accounts were reimbursed.

On October 4, 2011, MLPF&S entered into a consent agreement with FINRA regarding its alleged failure to have a supervisory system to ensure that all accounts in which an employee either had a financial interest or over which the employee had control were monitored and reviewed for potential misconduct. In addition, FINRA found that MLPF&S failed to establish, maintain and enforce written procedures to adequately supervise a registered representative who was subsequently found to have used a business account at the firm to implement a fraudulent scheme. Without admitting or denying the findings, MLPF&S consented to the entry of findings, a censure, and a fine of \$1 million.

On June 6, 2009, BAI and BAS, two of our predecessor firms, were enjoined by the United States District Court for the Southern District of New York from violating, directly or indirectly, Section 15(c) of the Exchange Act. The injunction was the result of an SEC complaint alleging that BAI and BAS had violated Section 15(c) of the Exchange Act by allegedly misleading customers about the nature and risks associated with auction rate securities ("ARS"). Without admitting or denying the allegations, BAI and BAS entered into a consent decree and agreed to a series of undertakings designed to provide relief to certain individual investors. On January 10, 2012, MLPF&S agreed to settlements with the Illinois Securities Department (for alleged activities of BAS and BAI, its predecessors by merger) and the North Carolina Department of the Secretary of State, Securities Division (for ARS activities of MLPF&S) involving the marketing and sale of ARS. In both actions, it was alleged that the inappropriate marketing and sales of ARS occurred without adequately informing certain customers of the increased risks of illiquidity associated with ARS that constituted an occurrence of dishonest and unethical practices in the offer and sale of securities and failure to supervise. In the Illinois action, MLPF&S agreed, among other things, to repurchase at par certain illiquid ARS and to pay a total fine of \$1,578,321 to the State of Illinois out of a total civil penalty of \$50 million that was to be distributed among the other state regulator parties to an ARS-related consent order. With respect to the North Carolina action, MLPF&S agreed, among other things, to repurchase at par certain illiquid ARS held by certain of its clients and to pay a total fine of \$3,193,552 to the North Carolina regulator representing its portion of a total civil penalty of \$125 million that was to be distributed among the other state regulator parties to an ARS-related consent order.

#### OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS

Merrill, an indirect wholly-owned subsidiary of Bank of America, is a leading global investment banking firm and a registered broker-dealer and investment adviser. In the United States, Merrill acts as a broker (i.e., agent) for its corporate, institutional and private clients. Through its own arrangements and through its affiliated, BofA Securities, Inc. ("BofAS"), it has access to a dealer market in the purchase and sale of corporate securities, primarily equity and debt securities traded on exchanges or in the over-the-counter markets. Merrill also acts as a broker and/or a dealer in the purchase and sale of mutual funds, money market instruments, government securities, high-yield bonds, municipal securities, financial futures contracts, and options.

Merrill operates the firm's U.S. retail branch system, and also provides financing to clients, including margin lending and other extensions of credit as well as a wide variety of financial services, such as securities clearing, retirement services, and custodial services. In May 2019, Bank of America separated the retail and institutional broker-dealer activities that had operated through MLPF&S into two distinct legal entities. Retail customers continue to be serviced through MLPF&S, while institutional clients are serviced through BofAS. As a registered investment adviser, Merrill completes a Form ADV, which it publicly files with the SEC (available at <http://www.adviserinfo.sec.gov/IAPD>).

For purposes of Form ADV Part 2, certain Merrill management persons are registered as registered representatives or associated persons of Merrill. In the future, certain Merrill personnel may be considered management persons and, as such, may be registered, or have applications pending to register, as registered representatives and associated persons of Merrill to the extent necessary or appropriate to perform their job responsibilities.

Bank of America, through its subsidiaries and affiliates, including us, provides broker-dealer, investment banking, financing, wealth management, advisory, asset management, insurance, lending and related products and services on a global basis. These products and services include securities brokerage, trading and underwriting; investment banking, strategic advisory services (including mergers and acquisitions) and other corporate finance activities; wealth management products and services including financial, retirement and generational planning; asset management and investment advisory and related record-keeping services; origination, brokerage, dealer and related activities in swaps, options, forwards, exchange-traded funds, other derivatives, commodities and foreign exchange products; securities clearance, settlement financing services and prime brokerage; private equity and other principal investing activities; proprietary trading of securities, derivatives and loans; banking, trust and lending services, including deposit-taking, consumer and commercial lending, including mortgage loans, and related services; insurance and annuities sales; and providing research including: global equity strategy and economics, global fixed-income and equity-linked research, global fundamental equity research, and global wealth management strategy. Bank of America is subject to the reporting requirements of the Exchange Act and additional information about Bank of America can be found in publicly available filings with the SEC.

We, through our Financial Advisors, may suggest or recommend that clients use our securities account, execution and custody or other services, or such services of an affiliate. Similarly, Financial Advisors, who also handle clients' securities accounts, may suggest or recommend that clients purchase our products or products of an affiliate. Where Merrill's or our affiliate's services are used or products are purchased by clients, we and our affiliates will receive fees and compensation. Financial Advisors will, as permitted by applicable law, receive compensation (the amount of which varies) in connection with these products and services.

#### **RECEIPT OF COMPENSATION FROM INVESTMENT ADVISERS**

Certain conflicts arise from the fact that Investment Managers may engage in other business activities with us and our affiliates. For example, we or our affiliates may provide investment banking services, advisory services, prime brokerage services, brokerage services, placement agent, referral or other services for some or all of the Investment Managers. These other business activities, along with the fact that we are responsible for recommending particular Investment Managers to FAME, present a potential conflict of interest to the extent that our recommendation or selection of particular Investment Managers is based on such other business activities.

Any new Investment Manager recommendations are provided by Merrill's Chief Investment Office through various analyses including quantitative, fundamental, technical, strategic and economic analyses. These recommendations are presented to FAME and their independent investment consultant. Any recommendations presented to FAME will not be implemented without FAME's approval. As a result, this

conflict is addressed as FAME approves all Investment Managers in the NextGen Select Series and NextGen Direct Series during the recommendation process describe above.

## CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING

### CONFLICTS OF INTEREST AND INFORMATION WALLS

Merrill and its parent company, Bank of America, engage in a wide range of activities and businesses across a broad spectrum of clients. As a result, we recognize that actual, potential and perceived conflicts of interest develop in the normal course of operations in various parts of the Bank of America organization. To address these conflicts, information walls are in place which are designed to allow multiple businesses to engage with the same or related clients at the same time while mitigating any conflicts arising from such a situation. For example, information walls prevent the unauthorized disclosure of material nonpublic information and allow public side sales, trading and research activities to continue while other businesses within Bank of America possess material nonpublic information.

Additionally, Bank of America maintains a Code of Conduct which provides guidelines for the business practices and personal conduct all associates and board members are expected to adopt and uphold.

Managing conflicts of interest is an integral part of Bank of America's risk management process. We believe that no organization can totally eliminate conflicts that exist explicitly or implicitly. Bank of America, including Bank of America Merrill's investment advisory business, evaluates its business activities and the actual and possible conflicts that may emerge from its activities on an ongoing basis. To the extent that existing or new business activities raise an actual conflict of interest, or even the appearance of a conflict, we endeavor to provide you with full and clear disclosure or to take action to avoid them.

### CODE OF ETHICS

We have adopted an Investment Adviser Code of Ethics (the "Code of Ethics") covering our personnel who are involved in the operation and offering of investment advisory services. The Code of Ethics is based on the principle that clients' interests come first, and it is intended to assist employees in meeting the high standards that we follow in conducting our business with integrity and professionalism. The Code of Ethics covers:

- Requirement relating to employees complying with all applicable securities and related laws and regulations;
- Reporting and/or clearance of employee personal trading;
- Prevention of misuse of material nonpublic information; and
- The obligation to report possible violations of the Code of Ethics to management or other appropriate personnel.

Covered personnel must certify to the receipt of the Code of Ethics. We will provide a copy of the Code of Ethics to you upon request.

We also have imposed policy restrictions on all personnel regarding transactions for their own accounts and accounts over which they have control or a beneficial interest. In addition, we have special policies requiring certain personnel obtain specific approval of securities transactions and have implemented procedures for monitoring these transactions, as well as those of all our employees.

### PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS

In the United States, Merrill acts as a broker (*i.e.*, agent) for its corporate, institutional and private clients.

Through its own arrangements and through its affiliate, BofAS, it has access to a dealer market in the purchase and sale of corporate securities, primarily equity and debt securities traded on exchanges or in the over-the-counter markets. We also act as a broker and/or dealer in the purchase and sale of mutual funds, money market instruments, government securities, high-yield bonds, municipal securities, financial futures contracts and options. We operate the firm's U.S. retail branch system, and also provide financing to clients, including margin lending and other extensions of credit as well as a wide variety of financial services, such as securities clearing, retirement services and custodial services. As a result of our and our affiliates' involvement in multiple business activities, we recognize that actual, potential and perceived conflicts of interest develop in the normal course of operation in various parts of the Bank of America organization, including that our employees may have interests unrelated to clients (see further discussion below).

This discussion does not seek to identify all actual or potential conflicts. Information about certain additional conflicts is described throughout this Brochure and in many of the contracts and offering documents that govern the specific products and services we offer.

We, through our Financial Advisors, may suggest or recommend that clients also use Merrill securities accounts, execution, custody, or other services, or such services of an affiliate. Similarly, Financial Advisors may suggest or recommend that clients purchase Merrill products or products of an affiliate, including insurance products, mortgage, trust and credit services, and mutual funds. Where Merrill's or an affiliate's products or services are purchased by clients, we, our affiliates and employees will receive fees and compensation. Compensation received in connection with clients' purchase or sale of stocks, bonds, mutual funds, other securities or insurance products through Merrill or its affiliates may include commissions, spreads, markups and markdowns, and distribution or other fees.

As a broker-dealer effecting transactions on behalf of clients, including those clients who have purchased financial planning products, we or an affiliate may act as agent or as principal for our own account, as permitted by applicable law. Similarly, we or an affiliate may, in transactions involving such clients' securities, act as agent while also representing another client on the other side of the transaction. In addition, we or our affiliates may have a position in, or enter purchase or sale orders for, securities recommended to clients in the normal course of our business as a broker-dealer. We and/or our affiliates may profit from these positions or transactions in securities.

We, acting in our broker-dealer capacity, may recommend that clients invest in a variety of limited partnerships and limited liability companies, for which certain of our affiliates may act as general partners. The investments of the limited partnerships may vary but include, without limitation, securities, real estate and futures.

#### **INVESTMENTS IN SECURITIES BY MERRILL AND OUR PERSONNEL**

We and our affiliates act in a variety of capacities to a wide range of clients. From time to time in the course of those duties, confidential information will be acquired that cannot be divulged or acted upon for advisory or other clients. Similarly, from time to time, we give advice or take action with regard to certain clients which differs from that given or taken with regard to other clients. This includes the advice given or actions taken with respect to certain securities or Investment Managers. In some instances, the actions taken by affiliates with respect to similar services and programs conflicts with the actions taken by us. This is due to, among other things, the differing nature of the affiliate's investment advisory service and differing processes and criteria upon which determinations are made.

Many of the conflicts related to participation or interest in client transactions and personal trading are less pronounced in NextGen. We nevertheless attempt to address conflicts of interest through disclosure in this Brochure and other disclosure documents. We have established a variety of restrictions, procedures and disclosures designed to address actual and potential conflicts of interest – both those arising between and among client accounts as well as between client accounts and our business. For example, our personnel also



are subject to personal trading restrictions as detailed in our policies and procedures and Code of Ethics. These policies and procedures and the Code of Ethics require our Financial Advisors to obtain pre-approval for certain securities transactions, disclose their investment accounts, and provide or cause Merrill to receive annual holdings reports and quarterly transaction reports.

### BROKERAGE PRACTICES

Within NextGen, we offer a number of portfolios that invest in mutual funds, a number of portfolios that invest in iShares exchange traded funds (ETFs), the Principal Plus Portfolio which invests contributions into a Guaranteed Interest Account (GIA) issued to Merrill by New York Life Insurance Company on behalf of NextGen and the NextGen Savings Portfolio which receives contributions into a Bank Deposit Account (BDA) with BANA. In all cases, Merrill does not receive any soft dollar benefits associated with any of these portfolio offerings.

With respect to the Principal Plus Portfolio and the NextGen Savings Portfolio, both the GIA and the BDA are accounts that are funded through 529 participant investment and are solely available to the Program. They are not traded through a broker.

With respect to the portfolios that invest in mutual funds, Merrill maintains an account for each portfolio on behalf of NextGen through omnibus accounts. All mutual fund purchase and redemption orders transacting within the omnibus accounts are transmitted directly to the mutual fund company's transfer agent. The mutual fund companies that trade their funds within NextGen make their mutual funds available to NextGen at net asset value and are not subject to initial sales charges, contingent deferred sales charges or redemption fees.

With respect to the portfolios that invest in iShares ETFs, Merrill maintains a separately managed account that is opened directly at BlackRock. BlackRock trades the ETFs each business day on the principal U.S. exchange on which the ETFs are traded, as soon as the relevant market opens, in accordance with instructions provided to BlackRock by Merrill. Under this scenario, neither Merrill nor FAME are selecting brokers to execute ETF trades on behalf of NextGen. BlackRock's open market trading is executed with brokers according to its policy of best execution. In light of this policy, BlackRock will select broker-dealers or use automated trading systems that will seek to execute securities transactions for clients in such a manner that the client's total cost or proceeds in each transaction is the most favorable under the circumstances. In selecting broker-dealers or automated trading systems to trade securities, BlackRock will consider all factors it deems relevant, including, but not limited to: (i) BlackRock's knowledge of pricing and liquidity currently available; (ii) the desired timing of the transaction; (iii) the nature and character of the security or instrument being traded and the markets on which it is purchased or sold; (iv) the activity existing and expected in the market for the particular security or instrument; (v) the full range of brokerage services provided; (vi) the broker's or dealer's capital strength and stability, as well as its execution, clearance and settlement capabilities; (vii) the quality of the research and research services provided; (viii) the reasonableness of the commission or its equivalent for the specific transaction; and (ix) BlackRock's knowledge of any actual or apparent operational problems of a broker or dealer.

BlackRock's trading professionals continuously monitor brokers' capabilities by electronically comparing benchmark prices versus actual execution. Executions are monitored both on an individual security basis and across entire trade programs. Across all BlackRock trading activity, they leverage a proprietary tool for transaction cost analysis ("TCA") to manage and monitor trading performance. Their TCA framework measures execution quality with respect to price before, during and after a trade is completed. The metrics holistically capture all trading costs which include the total impact from a broker's order handling and routing decisions. They use this data to identify outliers which may indicate that a particular counterparty, tactic, or venue is no longer appropriate for BlackRock.

The process of evaluating execution quality is monitored and reviewed internally on a regular basis by key members of their Investments businesses. BlackRock has established an Equity Trading Oversight Committee (“ETOC”), which in conjunction with its Equity Policy Oversight Committee (“EPOC”) have oversight responsibility for implementation of BlackRock’s equity trading policies, including the firm’s best execution policy. Representatives of Trading, Portfolio Management, Risk & Quantitative Analysis Group, Legal & Compliance and Operations, and other key business partners are members of the committees. ETOC and EPOC meet quarterly.

### REVIEW OF ACCOUNTS

Various Directors and Vice Presidents of Merrill conduct quarterly reviews of all NextGen investment portfolios (other than the Principal Plus Portfolio and the NextGen Savings Portfolio) and report to FAME. The reviews may involve both qualitative and quantitative analysis, including, among other things, quarterly presentations by each of the Third Party Sub-Advisors and comparisons to portfolio benchmarks and Lipper peer group indices.

### CLIENT REPORTS

The Third Party Sub-Advisors annually present recommendations to Merrill and FAME to make changes to portfolio allocation and portfolio investments offered through NextGen.

Every semi-annual period ending June 30 and December 31, Merrill prepares a presentation for FAME that is used to review investment performances of the NextGen Savings Portfolio and the Principal Plus Portfolio. The presentation includes a comparison of the two-year gross average return of the NextGen Savings Portfolio and Principal Plus Portfolio with their corresponding benchmarks, as agreed upon with FAME and stated in the PMA.

### CLIENT REFERRALS AND OTHER COMPENSATION

As described above, we are compensated for our sales and distribution efforts to participants in NextGen out of certain sales charges and ongoing compensation from the underlying funds and other investments. Our Financial Advisors receive a portion of this compensation. In addition, we receive compensation from Third Party Sub-Advisors to the underlying funds, the underlying funds or from providers of other investments available through NextGen. There is no client referral paid to participants in the program.

### CUSTODY

NextGen assets generally are custodied with us in our capacity as a broker-dealer and qualified custodian, with the exception of the iShare Portfolios, the Bank Deposit Account, and any certificates of deposit issued by banks or financial institutions. We will provide FAME with periodic account statements for the assets held with us. FAME should carefully review those statements.

For iShares Portfolios, BlackRock is the custodian of the assets. FAME will receive account statements directly from BlackRock regarding iShares Portfolios and may also receive account statements and performance reports from us that reflect those assets. FAME should understand that BlackRock will provide the official records of the holdings and transactions for the iShares Portfolios. FAME is urged to compare the account statements it receives from BlackRock with any that you receive from us.

The Bank Deposit Account is an omnibus bank deposit account with BANA and certificates of deposit are issued by various banks and/or financial institutions. You will receive account statements directly from BANA for the Bank Deposit Account and from the applicable banks and/or financial institutions for the certificates of deposit. FAME should carefully review those statements.

**INVESTMENT DISCRETION**

We do not accept discretionary authority in connection with NextGen.

**VOTING CLIENT SECURITIES**

FAME, in its capacity as Plan Administrator of NextGen, votes client securities on behalf of the Plan.

**FINANCIAL INFORMATION**

Not applicable.



## GLOSSARY

“Advisers Act” means the Investment Advisers Act of 1940, as amended.

“AWC” means a FINRA Letter of Acceptance, Waiver and Consent.

“BANA” means Bank of America, N.A.

“Bank of America” means Bank of America Corporation.

“Bank Deposit Account” means an interest-bearing omnibus bank deposit account with Bank of America, N.A., an affiliate of the Program Manager, in which deposits are FDIC-insured up to \$250,000 per Participant.

“BlackRock” means BlackRock, Inc., and its affiliates.

“BlackRock Funds” means Funds sponsored, managed and/or distributed by affiliates of BlackRock, Inc.

“Brochure” means this Merrill program brochure relating to NextGen 529, as amended or updated from time to time. The Brochure is also referred to as the Disclosure Statement.

“Cash Allocation Account” means a separate account that seeks current income, preservation of capital and liquidity. The Cash Allocation Account is invested directly in a diversified portfolio of money market securities and may also be invested in certificates of deposit issued by Maine financial institutions. BlackRock serves as the investment manager for the Cash Allocation Account under a separate agreement with Merrill.

“Code of Ethics” means Merrill’s Investment Adviser Code of Ethics.

“Disclosure Statement” means this Merrill program brochure relating to NextGen 529, as amended or updated from time to time. The Disclosure Statement is also referred to as the Brochure.

“ETF” means Exchange Traded Fund.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“FAME” means the Finance Authority of Maine.

“FINRA” means the Financial Industry Regulatory Authority, Inc.

“FDS” means Financial Data Services, LLC, an affiliate of Merrill.

“Financial Advisor” means a Merrill Financial Advisor.

“GIA” means guaranteed interest account.

“Initial Sales Charge” means a fee based on a percentage of a contribution that is deducted from certain contributions prior to their investment in the account.

“Investment Company Act” means the Investment Company Act of 1940, as amended.

“Investment Manager” means an investment adviser that is registered with the SEC or one or more state regulatory authorities, or which is exempt from the registration requirement.

“Maine Distribution Agents” means participating broker-dealers (other than Merrill).

“Merrill,” “MLPF&S,” “we,” “us” or “our” means Merrill Lynch, Pierce, Fenner & Smith Incorporated.

“NextGen” means the Maine Education Savings Program.

“NextGen Savings Portfolio” means the Bank Deposit Account.

“Participation Agreement” means the contract between the participant and FAME, which establishes the account and the obligations of FAME and the participant, as amended.

**“PMA”** means the Program Management Agreement, as amended, between FAME and Merrill.

**“Principal Plus Portfolio”** means the guaranteed investment contract (GIC) issued by an insurance company, deposits in the Bank Deposit Account, and, to the extent approved by FAME, corporate fixed-income investments and/or similar instruments.

**“Program Description”** means the current NextGen 529 Program Description and any effective supplements to it.

**“Program Manager”** means the company that is responsible for the day-to-day operation of the program as well as its marketing and distribution. Currently, Merrill is the Program Manager for NextGen 529.

**“Related Company”** means a company that is an affiliate of Merrill or in which Merrill or an affiliate of Merrill has a material ownership interest.

**“SEC”** means the U.S. Securities and Exchange Commission.

**“Securities Act”** means the Securities Act of 1933, as amended.

**“Third Party Sub-Advisors”** means a registered investment advisor, other than the Program Manager, that recommends underlying funds and the allocation of such underlying funds for one or more portfolios comprised of underlying funds advised by such investment adviser or any of its affiliates.

**“Unit Class”** means the A or C Units that represent investments within each of the portfolios in the Client Select Series, each of which has its own sales charge and expense structure.

**“Units”** means interests in a portfolio that are purchased with contributions to an account.

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