

# **COWEN PRIME ADVISORS LLC**

## **I.S.VALUE Program**

(ISV Program)

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May 31, 2021

This Brochure provides information about the qualifications and business practices of COWEN PRIME ADVISORS LLC (“CPA” or “we”). If you have any questions about the contents of this Brochure, please contact us at (646) 562-1010 or at [www.Cowen.com](http://www.Cowen.com), Attn: Rep Poppell, Chief Compliance Officer. 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.

CPA is a registered investment adviser. Registration of an investment adviser does not imply any level of skill or training. The purpose of this Brochure is to provide you with information that will help you decide whether to retain us as your investment adviser.

This Brochure provides information about the ISV Program offered by CPA. CPA offers other investment advisory programs that are not described in this Brochure but are described in other CPA Brochures.

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

**Item 2. Material Changes**

Since our last annual updating amendment dated December 31, 2020, we have revised our Form ADV Part 2A Disclosure Brochure (the “Disclosure Brochure”) to update certain information about our investment advisory business as outlined below. At any time, you may view the current Disclosure Brochure online at the SEC’s Investment Adviser Public Disclosure website by visiting [www.advisorinfo.sec.gov](http://www.advisorinfo.sec.gov) and searching our firm name. You may also request a copy of the Disclosure Brochure at any time by contacting us at (646) 562-1010. We encourage clients to review the entire Disclosure Brochure and to contact us at the number above with any questions.

**Item 4. Advisory Business**

We have updated this item in the Disclosure Brochure to reflect that Cowen Prime Advisors LLC (“CPA”), a Delaware limited liability company formed in March 2021, has succeeded to the investment advisory business of Cowen Prime Services LLC, effective May 31, 2021. There has been no practical change of control or management of CPA and it will now operate as a separate firm and as an affiliate of Cowen Prime Services LLC, a Delaware limited liability company. Additional changes are made throughout the Disclosure Brochure to reflect this new information.

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#### **Item 4. Advisory Business**

Cowen Prime Advisors LLC ( “we”, “CPA” or the “Firm”) is a Delaware limited liability company formed in March 2021. As of May 31, 2021, CPA succeeded to the investment advisory business of Cowen Prime Advisors, which was previously operating as a division of Cowen Prime Services LLC (“CPS”) under the name, Cowen Prime Advisors. There has been no practical change of control or management of CPA and it will operate as a separate firm and as an affiliate under common control of CPS, a Delaware limited liability company. CPA is directly owned by Cowen PB Holdings, LLC, a Delaware limited liability company, which in turn is primarily owned by Cowen Inc., also a Delaware limited liability company. CPS will serve as the broker-dealer to execute transactions in CPA client accounts.

CPA offers several investment advisory services to its clients, many of which provide differing types of investment management styles and/or services. This Brochure relates only to the ISV Program, and no other advisory programs are discussed in this Brochure. Information regarding other investment advisory programs offered by CPA is contained in other CPA brochures which may be obtained by contacting us at [www.cowen.com](http://www.cowen.com), Attn: Rep Poppell, Chief Compliance Officer. The ISV Program focuses on the discretionary management of client funds pursuant to an investment strategy that seeks enhanced absolute and relative returns while seeking to minimize risk to capital over a five-year investment horizon. The ISV Program utilizes a value-oriented approach to investment selection focusing on investments as to which it is believed the intrinsic value will increase over time, and it does not limit itself to investments in particular market capitalizations, industry classifications or security type. See the discussion in Item 8 below for a description of the methods of analysis and investment strategies used in the ISV Program.

Since this Program tends to invest on a highly concentrated basis (defined by the number of investments) in a wide range of securities with varying market capitalizations, industry classifications and security types it is generally not possible to tailor portfolios to the particular desires of any individual client. This program will adjust the degree of concentration and diversification depending on risk tolerance, investment goals of the client and market conditions. Generally, the number of equity securities positions held per account is less than fifty. In addition, a client would not normally have the ability to impose any restrictions on investing in certain securities or types of securities within the ISV Program.

As of the date of this Brochure, the CPA manages approximately \$336,028,206 of client assets on a discretionary basis.

#### **Item 5. Fees and Compensation**

We will receive a management fee for managing our clients’ assets in the ISV Program based on a client’s assets under management in the Program. Such management fee will range between 0.5% and 2.0% of the assets under management in a client’s account. Fees will be negotiable within the range indicated based upon several factors, including the size of the account, the relationship of the particular client to other existing or potential clients or accounts, the

commission rates to be charged to an account, and other factors that may be deemed significant by us in any particular instance.

Management fees will normally be paid in advance based upon the value of the client's account as of the close of the previous quarter (prorated for accounts opened on any day other than the first day of a quarter). No adjustment will be made in any asset-based fee paid in advance for a quarter in the event funds are added to or withdrawn from an account during the quarter. However, if an account paying an asset-based fee in advance is terminated prior to the end of a calendar quarter; any unearned fees paid in advance will be refunded to the client. Our fee is normally deducted directly from the client's account (that is, our clients are not separately billed for the amount of the fee), but if a client would prefer to be invoiced for services rendered, we will bill the client directly. We will also share a portion of our asset-based management fee with those of our advisory personnel who manage portfolios under the ISV Program ("Portfolio Managers").

As noted above, we will utilize the brokerage services of CPS, our affiliated broker-dealer, to execute transactions in CPA client accounts. In the event that CPS executes such transactions, it will retain any commissions earned on those transactions and will not credit those commissions against our management fees. Our Portfolio Managers who will actually be managing the accounts in the ISV Program will not participate in any commissions paid to CPS by their advisory accounts. However, this might give us and such Portfolio Managers an incentive to recommend investments based upon the compensation received by them and by us rather than on the needs of our clients. At present, CPS does not retain any commissions paid by accounts in the ISV Program. Again, our Portfolio Managers who will actually be managing the accounts in the ISV Program will not participate in any commissions paid by accounts in the ISV Program.

The ISV Program normally will involve long-term holdings of the investments made within the Program. Under those circumstances, commission expenses are not likely to be a substantial expense for accounts managed in the ISV Program over time, and it is unlikely that any transactions effected for a client would be influenced by our or our Portfolio Managers' conflicting interest in generating commission revenues. The commission rates charged to clients by CPS will generally range between \$0.0075 per share to \$0.05 per share, depending on the price of the security, cost of execution and clearance, ticket charges and the management fee paid by the client. Although we believe CPS's commission rate will be competitive with rates that could be negotiated with third-party broker-dealers who are not affiliated with us, it is possible that clients may pay brokerage commissions in the ISV Program that are higher than commission rates that may be available from unaffiliated broker-dealers. See Item 12 below for a further description of our brokerage practices in connection with the ISV Program.

CPS is an introducing broker-dealer that clears its transactions on a fully disclosed basis through Pershing LLC ("Pershing" or the "Clearing Firm"). Pershing will serve as qualified custodian for CPA client accounts. The account statements you receive from Pershing, the custodian, will reflect the deduction of fees. You are responsible for verifying that the fee you are charged is accurate. The custodian will not determine whether the fee is properly calculated. Should

you find an error, please contact your Portfolio Manager immediately. If you are not satisfied with the action your Portfolio Manager takes, you should contact CPA at the number on the cover page of this brochure.

Our firm's Code of Ethics, which sets forth the standard of conduct expected of our employees (see Item 11 for a discussion of our Code of Ethics), requires our personnel to act only in the best interests of our clients. Our Supervisory personnel will monitor the trading in our advisory accounts and the amount of commission income generated by such accounts in order to detect any level or type of trading that appears to be influenced by the compensation received by CPS or by our Portfolio Managers. Any possibly inappropriate trading will be brought to the attention of senior management for further review and analysis and will be dealt with in an appropriate manner.

Adequate data is not available to provide any estimate of the percentage of transactions that will be effected by CPS as the broker-dealer as opposed to an unrelated broker-dealer, but it is possible that a majority, and possibly all, of the transactions will be affected by CPS. In addition, certain of our Portfolio Managers are dually registered as registered representatives of our affiliated broker-dealer, CPS, and therefore can earn commissions from transactions effected in their clients' brokerage accounts. For such Portfolio Managers we cannot estimate what percentage of income from any particular client (who holds both advisory and brokerage accounts) will be from our asset-based or performance-based fees (if applicable) or from brokerage commissions, and therefore we cannot presently determine whether commissions received will make up the primary source of revenue of such Portfolio Managers.

Prospective clients should also see Item 12 below for further information about the factors that we will consider in selecting or recommending broker-dealers for client transactions (when such transactions are not effected by CPS) and determining the reasonableness of their compensation (e.g., commissions).

Our fees, described above, are exclusive of related costs and expenses which will be incurred by the client. Clients will incur odd-lot differentials, transfer taxes, interest charges on margin transactions, wire transfer and electronic fund transfer fees, asset movement fees, postage, foreign currency exchange fees, foreign securities costs, deferred sales charges (if applicable), ticket charges, custodial fees, maintenance fees, confirmation fees, FX fees and other fees and taxes on brokerage accounts and securities transactions and for other optional services elected by you as applicable on a per event basis. If an account is invested in mutual funds or exchange traded funds, the managers of those funds also charge internal management fees, which are disclosed in a fund's prospectus. All of such charges, fees and commissions are in addition to our asset-based management fee, and, if applicable, our performance-based fee, and with the exception of brokerage commissions that will be paid to CPS, as opposed to an unrelated broker-dealer (as explained in the following paragraph), we will share in a portion of any margin interest charges paid by an account and, we will share in a portion of the previously referenced commissions, fees, and costs paid by an account. All such fees are subject to the pricing schedule set by the Clearing Firm and in some cases are shared

between the Clearing Firm and CPS, our affiliated broker-dealer. Again, our Portfolio Managers who will actually be managing the accounts in the ISV Program will not share in such fees or commissions paid by accounts in the ISV Program.

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

A performance-based fee is one in which an investment adviser is paid a fee that is based upon the gains made in the client's account. At present, we currently do not charge a performance fee in the ISV Program. In addition, CPA offers other programs that are managed separately from the ISV Program. As stated previously, at present, CPA does not offer any advisory program that provides for the payment of a performance fee. Performance-based fee arrangements may create an incentive for such Portfolio Managers to favor such potentially higher fee-paying accounts over other accounts that they manage in the allocation of available investment opportunities. Under our Code of Ethics, we and our personnel are required to treat all clients fairly, and not to intentionally favor any one client or type of client over any other client in allocating investment opportunities. Our Supervisory personnel will monitor our clients' accounts and the trading in such hedge funds to assure that all clients are treated fairly in all respects.

#### **Item 7. Types of Clients**

We offer the ISV Program to high net worth individuals, groups of related family members, trusts, estates and charitable institutions, pension and profit-sharing plans, pooled investment vehicles, and corporations and other business organizations. Clients must generally invest a minimum of \$500,000 in assets in order to participate in the ISV Program, but CPS may waive that requirement at any time in its discretion.

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

*Investment Strategy.* The investment objective of the Portfolio Managers in the ISV Program is to provide enhanced absolute and relative returns while minimizing the risk to capital over any five-year investment horizon. The Portfolio Managers utilize a value-oriented, investment strategy with a strong emphasis on individual security selection. The Portfolio Managers' investment philosophy focuses on uncovering differentiated, long-term investment opportunities within a strict value-driven framework. The Portfolio Managers intend to invest in securities that meet their quantitative and qualitative investment criteria regardless of market capitalization, industry classification or security type. The fact that the ISV Program has the freedom "to go where value exists" results in the possibility that, at times client accounts will have exposure to securities issued by companies within a variety of different capitalizations or industry classifications. Since investments are judged on their ability to increase in value over a long-term time horizon, frequent trading will generally not be a strategy of the ISV Program and, as a result, commissions and other trading costs are not likely to be a significant expense of the Program over time.

The ISV Program focuses on the belief that there are inefficiencies in the markets for certain securities, more commonly in the securities of businesses with one or more of the following characteristics: businesses that are difficult to model; limited institutional research coverage; a

complex operating or capital structure; unrelated operating segments; operational difficulties; erratic financial performance; corporate restructuring activity; limited publicly-held comparable issuers; and participation in an industry experiencing structural change. The Portfolio Managers perform extensive primary research to support their investment screening process, including rigorous company-specific and industry analyses, management interviews, company meetings, and detailed due diligence inquiries with customers, suppliers, and competitors.

The Portfolio Managers will look to invest in companies whose debt and equity securities trade at what they believe is a substantial discount to their fair or intrinsic value. Accordingly, the foundation of the investment process in the ISV Program is the accurate determination and measurement of such value. The Portfolio Managers often utilize multiple valuation methodologies and criteria to arrive at an estimate of the true underlying value. These include traditional valuation metrics such as the ratios of price to book value, enterprise value to cash flow, price to earnings, and price to revenues. The Portfolio Managers will analyze these metrics in the context of a company's historical valuation parameters, as well as the current and historical valuations of both its peer group and the market in general. The Portfolio Managers may look to determine the price a strategic or financial buyer would pay to acquire the entire business (i.e., private market value) or the cost of replicating or recreating the business enterprise or assets in question. The Portfolio Managers will additionally consider any external factors that may affect value, such as the relative interest rate environment and the state of industry fundamentals.

In seeking to achieve the goal of the ISV Program, the Portfolio Managers augment a disciplined, value-based approach with a focus on those investments where, it is believed, the intrinsic value should increase over time. These are businesses with the potential to become strong and enduring franchises serving markets with high barriers to entry. They should ultimately command a leadership position in their respective industry, which will be demonstrated through market share, high value-added/best in class products and services, or ownership of assets that are unique and difficult to replicate. As these businesses grow, their competitive position should strengthen, resulting in improving profitability and returns on capital. Industry fundamentals should be transparent and support a reasonable case for sustainable secular growth. The factors influencing secular change in an industry should increase the value of the company's products, services, or assets. The Portfolio Managers favor businesses with strong management teams who have proven track records of creating value and aligning their interests with the interests of their public stakeholders. Management should also have a well-defined business plan that incorporates a sound strategy for capital allocation and redeployment.

While the ISV Program will invest primarily in equities, debt and related securities or financial instruments, in order to maintain flexibility and to capitalize on investment opportunities as they arise, the Program is not required to invest any particular percentage of client portfolios in any particular type of investment or region, and the amount of a client's portfolio which is invested in any type of investment, or which is weighted in different countries, different sectors or different strategies can change at any time based on the availability of attractive market opportunities.



Accordingly, a client's investments may at any time include long or short positions in U.S. or foreign publicly-traded or privately-issued or negotiated common stocks, preferred stocks, stock warrants and rights, sovereign debt, corporate debt, bonds, notes or other debentures or debt participations, convertible securities, swaps, options (purchased or written), and other derivative instruments, partnership interests and other securities or financial instruments, including those of investment companies.

*Risk of Loss.* Although investments made for clients in the ISV Program offer the opportunity for capital appreciation, all investments in securities come with risks that could result in significant losses that clients should be prepared to bear. These risks arise from several sources. The issuers of securities in which the Portfolio Managers invest may not perform as expected, or they may be affected by unexpected adverse events relating to them specifically or to the markets in general which could adversely affect their value. Moreover, even if such issuers perform as expected, such performance may not be reflected in the market value of their securities. General market conditions also affect the value of securities in which the Program will invest, and such conditions may be adversely affected by national and international economic and political conditions and events and by other factors. The events which may adversely affect the value of securities in which the Program invests are beyond the control of the Portfolio Managers and may occur suddenly, leaving little time for the Portfolio Managers to take appropriate action.

Marketable securities typically fluctuate in price daily, sometimes substantially. These fluctuations may affect clients' short-term investment performance. Such fluctuations may occur at times when the Portfolio Managers wish to sell securities held in client accounts, and this may affect the Portfolio Managers' ability to limit losses for clients.

In some cases, client accounts may invest in securities for which there is a limited market. Under such circumstances, the Portfolio Managers may not be able to sell such securities for clients when they desire or at prices which they believe represent appropriate value. There can be no assurance that the ISV Program will achieve its investment objectives. In addition to the general risks of loss discussed above, the ISV Program is subject to a number of risks that are specific to its investment strategies, including the following:

*Lack of Diversification.* Client portfolios in the ISV Program are not intended to be diversified among a wide range of industries or types of investments. Accordingly, the portfolios' investments may be subject to more rapid change in value than would be the case if such portfolios maintained a wide diversification among industries and types of investments.

*Research Sharing.* Research and investment ideas will not be shared between Portfolio Managers of the ISV Program and other Portfolio Managers.

*Non-U.S. Securities.* The ISV Program intends to invest in non-U.S. securities. Investing in non-U.S. securities, which are generally denominated in non-U.S. currencies, and utilization of

options on non-U.S. securities, involve risks not typically associated with investing in U.S. corporate or government securities. These considerations include changes in exchange rates and exchange control regulations, political and social instability, expropriation, imposition of foreign taxes, less liquid markets and less available information than is generally the case in the United States, higher transaction costs, foreign government restrictions, less government supervision of exchanges, brokers and issuers, greater risks associated with counterparties and settlement, difficulty in enforcing contractual obligations, lack of uniform accounting and auditing standards and greater price volatility.

*Options.* The Portfolio Managers could in theory buy or sell options from time to time in the ISV Program to either hedge an existing position or for efficient investment purposes. The purchase or sale of an option involves the payment or receipt of a premium by the investor and the corresponding right or obligation, as the case may be, either to purchase or sell the underlying security, commodity or other instrument for a specific price at a certain time or during a certain period. Purchasing options involves the risk that the underlying instrument will not change price in the manner expected, so that the investor loses the premium it paid to purchase the option. Selling options involves potentially greater risk, because the investor is exposed to the extent of the actual price movement in the underlying security rather than only the premium payment received (which could result in a potentially unlimited loss). Over-the-counter options (i.e., those not traded on an exchange) also involve counterparty solvency risk. At present, the ISV Program does not buy or sell Options.

*Short Sales.* Despite a long bias, the Portfolio Managers could in theory utilize short positions to hedge clients' exposure to certain industries or the market in general, and to exploit inefficiently priced securities. Any "naked" short positions (i.e., not for the purpose of hedging a related position) will be limited to those securities that trade at a significant premium to their intrinsic or fair value and have deteriorating fundamentals. A short sale of a security involves the sale of a security that is not owned by the investor, with the hope that it can be purchased later at a lower price. Short sales may, in certain circumstances, substantially increase the impact of adverse price movements on a client's portfolio. A short sale of a security involves the risk of a theoretically unlimited increase in the market price of the security which could result in an inability to cover the short position, resulting in a theoretically unlimited loss. There can be no assurance that securities necessary to cover a short position will be available for purchase when necessary, and such unavailability could exacerbate any client losses. At present, the ISV Program does not utilize short position strategies.

The Portfolio Managers seek to partly minimize specific security risk in the ISV Program by attempting to obtain an exhaustive knowledge of each proposed investment. This would enable the Portfolio Managers to better analyze risk, interpret the impact of company specific and macro events, and to capitalize on opportunities created during periods of volatility and irrationality. The Program will also seek to invest in businesses with strong balance sheets and/or substantial free cash flows which can provide theoretical "floors", or downside limits, to valuation. These enable businesses to

weather difficult periods while preserving the flexibility to make strategic investments or to return capital to stakeholders (through dividends, share repurchases or debt repayment). In the absence of attractive investment opportunities, the Portfolio Managers intend to maintain their investment philosophy and may invest a significant portion of client assets in liquid, short-term, risk-free investments, including cash and cash equivalents.

## **Item 9. Disciplinary Information**

In this Item, registered investment advisers are required to disclose certain disciplinary information regarding the investment advisory firm itself or about any of its “management persons,” which generally includes all of an investment adviser’s principal executive officers and directors, as well the adviser’s investment committee if it has one, or, if not, the persons who determine general investment advice to be given to clients. In that regard, we disclose the following information:

CPS has no disciplinary information to disclose about itself.

There are no legal or disciplinary events that are material to a client’s or prospective client’s evaluation of the Adviser’s advisory business or the integrity of the Adviser’s management.

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

As noted previously, our affiliate, CPS is also registered as a broker-dealer with the SEC, FINRA. As noted previously, our affiliated broker-dealer, CPS is also registered as a broker-dealer with the SEC, FINRA, MSRB and it is registered with the CFTC and the National Futures Association as a commodities futures introducing broker. All our senior management personnel, as well as our Portfolio Managers who manage client accounts, are or will be registered with FINRA in their capacity as registered representatives of our affiliated broker-dealers and some, but not all, of our personnel will be registered as associated persons with the National Futures Association. In addition, as described in Item 6 above, some of our Portfolio Managers may be associated with the general partner to a pooled investment vehicle that is not managed by us. Such Portfolio Managers may have a conflict of interest as described in Item 6.

CPA is affiliated with the following U.S. registered broker-dealers: Cowen and Company, LLC, ATM Execution LLC, and Westminster Research Associates LLC. CPA’s non-U.S. affiliates include Cowen International Limited and Cowen Execution Services Limited, both UK FCA registered broker-dealers and Cowen & Company (Asia) Limited, a Hong Kong SFA registered broker dealer. The above referenced entities are all (directly or indirectly) wholly owned subsidiaries of Cowen Inc., a publicly traded company (NASDAQ: COWN).

CPA generally operates separately from its broker-dealer affiliates but will direct client business to CPS and also may direct client business to its other affiliated broker-dealers for the affiliate-owned Managed Accounts it advises. To the extent that any conflict may arise with respect

to its affiliated broker-dealers, the potential conflict is addressed by Cowen Inc.'s Conflicts Committee which is headed by Cowen Inc.'s General Counsel. At this time CPA does not believe there is any material conflict related to this relationship.

CPA maintains the following financial industry affiliations (broker dealers, investment advisors registered with the U.S. Securities and Exchange Commission or rely upon the registration of an affiliated investment adviser registered with the SEC, etc.): ATM Execution LLC; Cowen and Company, LLC; Cowen Execution Services limited; Cowen International Limited; Cowen Investment Advisors, LLC (dba Ramius Advisors, LLC); Cowen Investment Management LLC; Cowen Sustainable Advisors LLC; Healthcare Royalty Management, LLC; RCG Longview Equity Management, LLC; ; RCG Longview Partners II, LLC; TriArtisan Capital Advisors LLC; Westminster Research Associates LLC; Cowen Financial Products LLC; Quarton International AG; CHI Advisors LLC; RCG RE Manager LLC; HCR Collateral Management, LLC; All are directly or indirectly wholly owned subsidiaries of Cowen Inc., a publicly traded company (NASDAQ: COWN).

There are no material conflicts related to these affiliations. For a complete description of these advisors and the funds they manage, please refer to their Form ADV Part I's.

**Irwin Silverberg**, is a Portfolio Manager in the ISV Program. He has worked in the securities industry since 1961. He is currently a registered representative of CPS and an Investment Adviser Representative with CPA. Prior to his current position, Mr. Silverberg had been a Senior Managing Director of Burnham Securities, Inc., where he researched companies and managed client portfolios from 1991 to 2011. Mr. Silverberg was a Senior Partner at Silberberg Rosenthal & Co. from 1980 to 1991. He was a Securities Analyst for Oppenheimer & Co. from 1977 to 1980 and Loeb, Rhoades & Co. from 1966 to 1977.

Mr. Silverberg is a Chartered Financial Analyst and a member of the New York Society of Securities Analysts, the Financial Analysts Federation, and the Electronic Analysts Group of New York. He is the past president of the Electrical Products Group of New York and former vice president of the Pollution Control Analysts of New York. He has previously served on the Boards of Directors of Seaman's Furniture, Inc. and Mathematical Applications Group, Inc.

Mr. Silverberg is a graduate of Princeton University and has also studied at the graduate level at the Stevens Institute of Technology and the City College of New York. Mr. Silverberg is a member of the Board of EL Education, Inc., U.S.A. Mr. Silverberg is a member of the Board of the Petey Green Program

**Jeffrey Bernstein** is a Portfolio Manager in the ISV Program. He has worked in the securities industry since 1988. He is currently a registered representative of CPS and an Investment Adviser Representative of CPA. Prior to his current position, Mr. Bernstein had been a Senior Vice President of AH Lisanti Capital Growth Fund, where he served as an Analyst covering industrials, materials, energy and financials for this small and mid-cap growth, long-only

institutional and mutual fund manager from 2010 to 2015. Mr. Bernstein was a Partner at Guild Partners, LLC from 2007 to 2010 where he founded the real estate investment partnership specific to development projects in New York City. He was a Founding Partner of Manhasset Capital Management, LLC from 2003 to 2006 where he had P&L responsibility for all energy and technology sector positions for this long/short equity hedge fund. From 1993 to 2003, he was Portfolio Manager with ING and managed the ING Mid Cap Opportunities Fund.

Mr. Bernstein is a graduate of Union College and has supplemental studies and certification from Investment Banking Institute, New York, NY.

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

CPA and/or its Portfolio Managers and other associated persons involved with its investment advisory business (such Portfolio Managers and other associated persons being referred to as “advisory personnel” in this section of the Brochure) are permitted to buy or sell securities that are recommended to clients for purchase and sale, but no such transactions may be made in such a manner as will adversely affect any client. However, since our own or our advisory personnel’s investment objectives or trading strategies may differ from those of our clients, we and/or our advisory personnel may take action with respect to ourselves or themselves that is different from action taken with respect to clients. It is also possible that we may give advice and take action for some clients which differ from advice given, or the timing and nature of action taken, with respect to other client accounts.

We have adopted a “Code of Ethics” which sets forth the standards of conduct expected of our advisory personnel, and which addresses the conflicts that can arise from personal trading by them. This Code of Ethics requires that advisory personnel obtain pre-approval of any brokerage accounts they wish to open and requires pre-approval of any transactions by them which are not to be executed as part of a bunched order on behalf of clients and advisory personnel. The Code of Ethics also requires periodic reporting by advisory personnel through duplicate copies of confirmations and account statements or otherwise so that we can monitor their trading to prevent any violations of the Code of Ethics or other conflicts of interest which could result from trading by our advisory personnel. The Code of Ethics also includes provisions relating to the confidentiality of client information, a prohibition on trading on inside information, and restrictions on the outside business activities of our advisory personnel, among other things. All of our advisory personnel must acknowledge the terms of the Code of Ethics annually. A copy of the Code of Ethics will be provided to clients or prospective clients upon request.

It is our policy to treat all client accounts fairly and equitably, and we do not favor one group of client accounts over any other. In order to handle transactions for all of our clients in the fairest and most cost-effective manner possible, CPA will often submit bunched orders to its executing broker-dealers in order to obtain a better price for the particular security for a number of client accounts. In other words, rather than effecting multiple transactions, i.e., one for each client

account, CPA will instruct its executing broker-dealer to buy one or more larger blocks of the security in question and allocate the securities among the appropriate designated accounts at the average price paid or received in filling the order. These bunched orders may include orders for the accounts of CPA's advisory personnel.

In the event that an entire bunched order cannot be filled on the same day, the policy is as follows:

- (1) First, any part of the order which was placed for CPA advisory personnel will be eliminated in order to determine whether all client orders can be satisfied with the portion of the order that was filled. If any balance remains after all client orders have been filled in this manner, orders for CPA advisory personnel will then be filled on a *pro rata* or other appropriate basis.
- (2) Second, if the quantity filled is still insufficient to satisfy all of the client orders after elimination of the orders for CPA advisory personnel, our broker-dealer affiliate, CPS, will allocate the amount filled on a *pro rata* basis based upon the amount of the order that was intended to be bought or sold for each such client account (e.g., if only 60% of an order was filled, each client account would receive 60% of the amount originally intended for such account). In making such *pro rata* allocations, however, accounts that would otherwise receive an odd lot allocation may be rounded up to a round lot unless doing so would, in the firm's view, unreasonably affect allocations to all other clients.
- (3) If an order cannot be completely filled on a single trading day, it is the policy to cancel the unfilled balance of the order. Depending upon the market in that security on the following trading day(s), an order may be placed for the balance of the order on another day, with allocations to be made among the accounts in a manner that will fill, as nearly as possible under the circumstances, the original amounts intended for each of the clients' accounts. Orders for associated persons which had been eliminated in the previous allocation may be included with such later orders in the same manner as our general policy described above.

It is our policy with our affiliated broker-dealer that the firm will not affect any principal or agency cross securities transactions for client accounts, nor will it cross trades between client accounts. Principal transactions are generally defined as transactions where an adviser, acting as principal for its own account or the account of an affiliated broker-dealer, buys from or sells any security to any advisory client. An agency cross transaction is a transaction in which an investment adviser, or any person controlled by or under common control with the investment adviser, acts as broker for both the advisory client and for another person on the other side of the transaction. Since CPS, our affiliate under common control, serves as the broker-dealer for CPA client accounts, it has the ability to effect such agency cross transactions, but CPS has established a policy not to do so.

As described in Item 10 above, employees of CPA may recommend that clients purchase

shares of an investment partnership or other entity for which a Portfolio Manager acts as, or is associated with, an investment advisor or general partner of such entity. Any client to whom such investments are recommended will receive an offering memorandum disclosing the relationship of CPA to such entity and the fees or other compensation that may be paid to CPS and/or its personnel with respect to that investment.

As also noted in Item 10 above, any such payments may create a conflict of interest for CPA and/or the Portfolio Managers and other CPA personnel. CPA periodically reviews the trading in such investment vehicles that are managed by Portfolio Managers but not CPA to assure that the trading therein does not disadvantage the trading such persons engage in for clients.

## **Item 12. Brokerage Practices**

In general, CPA will have discretionary authority to (i) determine the type and amount of securities to be bought or sold for client accounts, and (ii) negotiate the commission rates to be paid. In addition, we will have the authority to select the broker-dealer to be used to execute such transactions. As noted above, CPS will serve as the broker-dealer to execute transactions in CPA client accounts. In that regard, most, but not necessarily all, transactions for client accounts will likely be executed by CPS as the broker-dealer. With respect to such executions, CPA has determined that the combination of CPS's execution capability, its commission rates, the general level of service available from the Clearing Firm in settling the trades, and other factors warrant the execution of most such transactions by CPS or through one of its clearing brokers. As described under Item 11 above, CPA will generally instruct its executing broker-dealer to execute transactions in which several clients will participate in a bunched order in which all participating clients will pay or receive the average price obtained in all of the transactions.

As described in Item 5 above, we may have a conflict of interest when CPS executes client transactions as the broker-dealer, rather than selecting another broker-dealer to execute such transactions in advisory accounts, since CPS, our affiliate, will receive the brokerage commissions in such transactions. Our Portfolio Managers do not receive any brokerage commissions in such transactions. Please refer to item 5 for a discussion of the manner in which we deal with such conflict.

It is possible, however, that not all transactions for client accounts will be executed by CPS. In some cases, CPS may not have the expertise to efficiently and economically execute transactions in certain types of securities. In addition, CPA may consider the availability of research or other products and services that may be available in connection with executions made through other broker-dealers. In selecting the broker-dealers to execute portfolio transactions for those occasions when CPS does not execute these transactions, we consider numerous factors, including, but not limited to, the broker-dealer's execution capabilities, the furnishing of research, their commission rates, and their overall level of service. Although we do not presently have any arrangements in which we will receive research or other services in connection with securities transactions effected for client accounts through broker-dealers other than CPS ("soft dollar arrangements"), we may enter into such arrangements in the future. The research obtained may be created or developed by

the executing broker-dealer, or it may be created or developed by a third party and provided to us by the executing broker-dealer. In the event that we enter into any such soft dollar arrangements, the research or other products or services obtained in such arrangements may be used for the benefit of all of our clients, not just those whose securities transactions paid for the products or services. While any broker-dealers we may use to execute transactions may charge commissions that may be higher than those obtainable from other broker-dealers for any particular transaction, including CPS or the Clearing Firm, we will only cause clients to pay brokerage commissions that we have determined in good faith to be reasonable in relation to the value of the research and brokerage services provided by such broker-dealers.

If we use broker-dealers other than CPS to execute client transactions and receive research from or through such broker-dealers, we may be viewed as receiving a benefit because we will not have to produce or pay for such research ourselves. We may also have an incentive to select a broker-dealer to execute such transactions based on our receipt of those soft dollar benefits rather than on the basis of our clients' interest in receiving the most favorable execution. Our Code of Ethics prohibits us from acting otherwise than in the best interests of our clients.

### **Item 13. Review of Accounts**

Our Portfolio Managers will review and monitor client accounts assigned to them on an ongoing basis subject to the continuing review and oversight of our supervisory personnel. Such Portfolio Managers will be responsible for the overall management of client accounts, including tracking and continually reviewing the performance of client investments and client portfolio allocations. Account reviews may also occur as a result of (a) client requests, (b) changes in a client's personal or financial condition (when we are advised of such changes), (c) changes in tax laws or in economic factors that could affect a client's financial position, or (d) the occurrence of economic or political events that may impact clients. Our supervisory personnel will also review client accounts on a periodic basis in order to monitor relative performance and adherence to investment criteria.

In addition to such reviews, our Portfolio Managers will review trade executions on a continual basis, and our operations personnel will review trade reports on a next-day basis, to ensure that each transaction was properly executed and correctly reported.

Clients will receive confirmations of all transactions executed for their account, and monthly account statements sent by the Clearing Firm, which acts as the independent custodian for our clients' accounts. Monthly, quarterly and year-to-date performance information will be available to clients through our clearing broker or upon request. See also Item 15 below regarding custody of client accounts.



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

### **Referrals:**

We do not presently have any arrangements under which we receive any benefit from a third party for providing investment advice to our clients, nor do we compensate any third party for referring any investment advisory client to us.

### **Other Compensation:**

#### **Business Development Credits**

Our affiliated broker-dealer, CPS, receives credits from Pershing each time it surpasses certain thresholds for total assets, which include client assets, maintained with Pershing as the clearing firm. CPS has received these substantial Business Development Credit payments and stands to receive additional payments for any additional asset thresholds added to the custody platform at CPA. This creates a conflict of interest in that it incentivizes CPA to maintain CPS as its affiliated broker-dealer to execute transactions in CPA client accounts and continue to direct assets, including client assets, to Pershing as its custodian.

#### **Credit Interest and Money Market Account Revenue**

When clients open accounts with CPA, their Portfolio Manager typically recommends a “sweep option” to hold funds awaiting investment. The sweep options made available to CPA client accounts through CPS include cash and several money market funds. Some of the money market fund options pay a distribution or 12b-1 fee, and pursuant to its clearing agreement with Pershing, CPS receives a portion of that fee based on average net assets of CPA clients beneficially owning shares of such funds. Pershing also offers money market fund options that do not pay a distribution or 12b-1 fees. CPA has an incentive to recommend a 12b-1 fee paying money market fund because such shares provide increased compensation to CPS, although this revenue is not shared with the Portfolio Manager. A conflict of interest exists when CPA recommends a fund paying a 12b-1 fee when an equivalent lower cost fund is available. Additionally, when a client does not select a money market fund or selects cash as the sweep option for their account, CPS is eligible to receive credit interest from Pershing. This creates a conflict in that it may incentivize CPA to recommend cash as the sweep option in order to increase the compensation paid to CPS.

#### **Margin Interest and Non-Purpose Loans**

Margin and non-purpose loans are made available to qualified CPA clients in certain circumstances through CPS and Pershing. Pershing establishes a base cost charged to CPS, which is the “cost to carry” the loans. CPS has discretion to charge more than this base interest rate or “mark up” the interest rate that is charged to the client. Pershing pays CPS a substantial portion of the interest above the base rate charged on clients’ margin and non-purpose loans. This creates a conflict in that it incentivizes CPA to recommend the use of margin and non-purpose loans to clients in order to increase revenue to CPS and the use of margin and non-purpose loans increases asset-based fees. Although almost all rates are negotiated directly with clients, the fact that CPS

marks up margin and non-purpose loan interest rates incentivizes it to set a higher rate in order to increase compensation to CPS for CPA client accounts.

### **Item 15. Custody**

As noted in Item 13 above, clients will receive monthly statements from Pershing, the independent custodian which holds and maintains our clients' accounts and assets. Clients should carefully review such statements and compare them to any other information you may receive from us.

CPS has limited custody of our clients' funds and/or securities when clients authorize us to deduct our management fees directly from their accounts. CPA is also deemed to have custody of a client's funds and/or securities when a client has on file a standing letter of authorization ("SLOA") with the account custodian to move money from the client's account to a third party and under the SLOA authorizes us to designate, based on the client's instructions from time to time, the amount or timing of the transfers. The SEC has set forth a set of procedural safeguards intended to alleviate a firm being held to the full requirements of the SEC's Custody Rule under these circumstances, which we follow.

Our affiliated broker-dealer, CPS, has an arrangement with Pershing to provide clearance and custody of accounts. Pershing: (a) maintains custody of all account assets, (b) executes and performs clearance of purchase and sale orders in accounts, and (c) performs all custodial functions customarily performed with respect to securities brokerage accounts, including but not limited to the crediting of interest and dividends on account assets. Pershing forwards client account statements as well as confirmation of each purchase and sale to you. Pershing acts as the general administrator of each account, which includes charging and collecting account fees on CPS's behalf and processing, pursuant to CPS's instructions, deposits to and withdrawals from the account. Pershing does not assist clients in selecting CPA or CPS.

You should receive at least quarterly statements from Pershing, the qualified custodian that holds your advisory account assets. CPA urges you to compare the holdings listed on the custodian's statement to those listed on reports CPA or your Portfolio Manager may provide. If you have a question about a discrepancy, you should direct it to your Portfolio Manager. If the Portfolio Manager is unable to adequately address your concern, you should contact CPA at the phone number on the cover page of this Brochure.

### **Item 16. Investment Discretion**

At the outset of an advisory relationship with a client, we will normally receive discretionary authority from the client to determine the identity and amount of securities to be bought and sold. In all cases, however, that discretion will be exercised in a manner consistent with

the agreed-upon investment objectives for the particular client. The investment discretion granted to us by the client is included in the Investment Management Agreement or other power of attorney we will execute with the client at the start of our relationship.

#### **Item 17. Voting Client Securities**

We will not vote, or give advice about how to vote, proxies for securities held in client accounts. If the account is for a pension or other employee benefit plan governed by ERISA, Client directs CPS not to vote proxies for securities held in the Account because the right to vote such proxies has been expressly reserved to either 1) The Plan's Trustees, or 2) The Named Fiduciary. Accordingly, the client will retain the sole right to vote such proxies and we will instruct our clearing firm or other custodian to forward proxy solicitation materials directly to the client.

#### **Item 18. Financial Information**

In this Item 18, registered investment advisers are required to provide clients with certain financial information or disclosures about their financial condition which are reasonably likely to impair their ability to meet contractual commitments to clients. We have no such financial condition to disclose.

#### **Item 19. Other Legal Actions**

The Client agrees that CPA will not advise or act for its clients in any legal proceedings, including bankruptcies or class actions, involving securities held or previously held by the Account or the issuers of these securities ("Legal Proceedings").