



BIRINYI ASSOCIATES, INC.

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FORM ADV PART 2

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This brochure provides information about the qualifications and business practices of Birinyi Associates, Inc.. If you have any questions about the contents of this brochure, please contact us at (203) 341-0833. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

Additional information about Birinyi Associates, Inc. also is available on the SEC's website at www.adviserinfo.sec.gov.

Item 2 – Material Changes

Since the last annual update of this brochure in March 2020, Birinyi has updated this brochure to add disclosure with respect to a recent settlement in Item 9, as well as providing further detail regarding its trading and allocation practices in Item 12 and review of accounts in Item 13.

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Item 4 – Advisory Business

Structure; History and Ownership

Birinyi Associates Inc. is a stock research and money management firm with its principal place of business in Westport, Connecticut. Birinyi Associates, Inc. will be referred to in this brochure as “Birinyi,” “we,” “us” or “the firm.” Birinyi was organized as a corporation formed under the laws of the State of Connecticut and has been registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the “Advisers Act”), since March 1989. The firm was founded by Laszlo Birinyi, who serves as President and Lead Portfolio Manager. Jeffrey Rubin serves as the firm’s chief compliance officer (the “CCO”), portfolio manager and Director of Research. The senior members of the firm’s investment team have worked together for over twenty-five years and have been managing client portfolios together since 1993. The firm has five employees and is owned by Laszlo Birinyi.

Types of Advisory Services

Birinyi provides investment advisory services to a number of unaffiliated investors through separate accounts (each a “separate account” and, collectively, “clients”).

Each separate account is a contractual arrangement between Birinyi and each of its clients whereby we undertake to monitor the client’s portfolio and direct a custodian selected by the client to purchase or sell securities on behalf of the client in particular amounts. Such arrangements are governed by an investment advisory agreement between us and each separate account.

Investors in separate accounts have flexibility in directing the investment strategy and guidelines applicable to their investment. Each separate account may vary greatly in terms of concentration and turn-over as directed by its owner or determined by Birinyi.

Impersonalized Investment Advice

In addition to the investment advisory services rendered to our clients described above, we also provide subscribers with investment information and market analysis on a periodic basis. The firm’s monthly newsletter, *Reminiscences*, has been in publication since 1992 and provides its subscribers with market commentary and stock analysis by Laszlo Birinyi and Jeffrey Rubin, monthly stock portfolios, a sector timing model and access to the firm’s interactive database containing ratings for 1500 stocks. *Reminiscences* is sent to all subscribers on the last Wednesday of each month.

For an additional fee, the firm’s Mini-Institutional service is available, providing subscribers with our most sophisticated and in-depth research on a daily basis while also receiving access to our archive of topical studies, research reports, and the monthly newsletter. Subscribers to our Mini-Institutional service receive our daily pre-market and post market reports, a suite of weekly reports and other strategy, analysis and research studies as they are produced.

In addition, the firm offers an institutional research service. Subscribers to this product receive not only the above products, but also customized research services as determined in consultation with the subscriber.

Subscribers to our newsletter or our Mini-Institutional service are collectively referred to herein as “subscribers.”

Assets Under Management

As of March 1, 2021 we managed approximately \$326,000,000 of client assets on a discretionary basis.

Item 5 – Fees and Compensation

Fees

We are generally entitled to one type of compensation from our clients: an asset-based management fee. While we do not presently receive any incentive compensation from any of our clients, in the future, we may enter into arrangements pursuant to which we would be entitled to receive incentive compensation based upon the performance of a separate account. Such incentive compensation would take the form of an incentive fee. The management fee is generally in the range of 1% to 2% per year of the net assets of each separate account. The management fees we receive are determined and payable either monthly, quarterly or semi-annually in advance.

Should we enter into an arrangement pursuant to which we receive an incentive fee, such incentive fee will be paid at such time(s) as agreed with the relevant client(s) and will be calculated as a percentage of the net increase in the value of the assets in the relevant separate account(s) during the relevant period. Any such fee may, but need not be, subject to a “loss carryforward” provision (also referred to as a “high-water mark”) that generally requires that any losses suffered by an account (adjusted to reflect withdrawals) be offset by subsequent net gains before the firm is entitled to any incentive fee from that account. Incentive fees, if any such arrangements are entered into, will be charged at a rate negotiated with the applicable client accounts.

The details of how the fees are calculated for each separate account are included in the investment advisory agreement between Birinyi and such separate account client.

The fees described above are our typical fee rates. However, under certain circumstances we may agree to different fee terms than those described above for particular separate accounts.

Our fees from separate accounts are typically paid directly from the assets of the separate accounts. In certain instances, separate accounts are billed directly and the fees are not debited from the account. As noted above, management fees payable by the separate accounts are typically payable in advance. Separate accounts will typically be subject to a *pro rated* management fee with respect to partial periods based upon the portion of the period for which the firm provided investment advisory services to the client.

A subscription to our newsletter costs \$22.99 per month or \$225 per year. Subscribers to our Mini-Institutional service pay either \$150 per month, \$750 for six months or \$1,500 for one year. The institutional service is offered at various prices depending on the level of interaction. We may at times offer discounts to the subscription services that are not made available to all subscribers.

Expenses

Separate accounts will generally be responsible for all custodial fees, brokerage commissions, clearing fees, interest and withholding or transfer taxes incurred in connection with trading for the separate account, and our fees as described above.

As we consider appropriate, we may invest a portion of a client’s assets in one or more money market funds, mutual funds or exchange-traded funds. When any such investments are made, the client will be

paying, in addition to the compensation payable to us, the client's proportionate share of any management fees charged by the manager of such money market fund or mutual fund.

The brokerage and other transaction costs that will be borne by the separate accounts are described in more detail in the section entitled "Brokerage Practices" in this brochure.

Item 6 – Performance-Based Fees and Side-by-Side Management

As described in "Fees and Compensation" above, while we do not presently receive any performance-based compensation, we may in the future receive part of our compensation from certain separate accounts in the form of performance-based fees. Should this be the case, we will also, at that time, continue to manage separate accounts that are not subject to any form of performance-based fee. Further, we will at that time provide impersonalized investment advice through our newsletter. As a result, should we receive performance-based fees, we will have a conflict of interest, because we can potentially receive proportionately greater compensation from a separate account that pays performance-based fees than from a separate account that pays us management fees only. We would have an incentive to:

- direct the best investment ideas or give favorable allocation to those separate accounts that pay performance-based fees;
- use trades by a separate account that does not pay performance-based fees to benefit separate accounts that do pay performance-based fees, such as where a performance fee-paying separate account sells short before a sale by a separate account that does not pay performance fees, or a performance fee-paying separate account sells a security only after a separate account that does not pay performance fees has made a large purchase of the security; and
- benefit a separate account paying a performance-based fee over a separate account that does not pay performance-based fees and which has a different and potentially conflicting investment strategy.

We owe a fiduciary duty to our clients not to favor the separate account of one client over that of another, without regard to the types and amounts of fees paid by those separate accounts. In light of the conflicts of interest described above, we have allocation policies and procedures in place to ensure that separate accounts are treated fairly. Generally allocations are made among clients based on each client's risk tolerances, investment preferences, account size, available cash, existing holdings and other relevant factors (including minimum lot size for trading). Where there is a limited supply of a security, Birinyi will seek to allocate or rotate investment opportunities, but cannot assure absolute equality among all accounts and clients. As a result, allocations may be other than on a *pro rata* basis. Explanations for variations from this approach are required to be documented and are subject to the periodic review of our Chief Compliance Officer to ensure that all separate accounts are being treated fairly.

Item 7 – Types of Clients

We generally provide investment advice to the holders of the separate accounts. Each separate account is a contractual arrangement between Birinyi and each of its clients whereby we undertake to monitor a client's portfolio and direct a custodian selected by the client to purchase or sell securities on behalf of the client in particular amounts. In a separate account, the client's funds and/or securities remain in the

possession and/or under the control of the custodian, and our authority to instruct the custodian to buy and sell is (pursuant to our contract with the client) terminable at will by the client.

The owners of the separate accounts could include banks or thrift institutions; investment companies; pension and profit sharing plans; trusts, estates and charitable organizations; funds of hedge funds (whether organized as partnerships, corporations or other entity types), high net worth individuals, individuals and family offices.

The firm generally requires a prospective client interested in opening and maintaining a separate account to grant the firm discretionary investment advisory authority over at least \$2,000,000 of the client's assets, although exceptions are made in certain circumstances.

We provide impersonalized investment advice through the newsletter, the Mini-Institutional service and the institutional research service to subscribers whose only qualifications are their ability to pay the subscription costs.

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

Investment Objective and Strategy

Our investment objective in the management of the separate accounts is to achieve high positive returns with limited correlation to equity or fixed income markets. We seek to achieve this objective by causing our clients to invest in securities where we believe the prevailing stock price inaccurately reflects the real value of the security. Our primary method of realizing value from these mispricings is through taking long and short positions in publicly-traded U.S. equity securities across the capitalization spectrum, while tactically managing overall portfolio, sector, and individual company exposures.

Our investment strategy inherently involves certain significant risks. There can be no assurance that our investment objective will be realized or that any account will be profitable in the future. See the section titled "Risks Associated with Our Investment Strategy" below.

Investment Philosophy

Birinyi's investment philosophy is shaped by the ideology of Charles Dow. As he stated years ago, *investing should start by analyzing the market's input:*

The market reflects all that the jobber knows about the condition of the textile trade; all that the banker knows about the money market; all that the best-informed president knows of his own business, together with his knowledge of all other businesses; it sees the general condition of transportation in a way that the president of no single railroad can ever see; it is better informed on crops than the farmer or even the Department of Agriculture. In fact, the market reduces to a bloodless verdict all knowledge bearing on finance, both domestic and foreign.

The price movements, therefore, represent everything everybody knows, hopes, believes and anticipates. Hence, there is no need to supplement the price movements, as some statisticians do, with elaborate compilations of commodity price index numbers, bank clearings, fluctuations in exchange or anything else. The price movements themselves reflect all of these things, and therefore an understanding of the price movements of the market.

Our investment strategy and process are premised on the following core beliefs:

1. Understanding the history of the market is critical to successful investing because, while history rarely repeats itself, it often rhymes. Few investors have the experience or all of the relevant data they need to draw appropriate conclusions. As a result, they often take analytical short cuts leading to investment mistakes.
2. Market sentiment is a critical input to investment decision-making. Historically, some of the greatest investment opportunities presented themselves when market perception, investor behavior, and price momentum were at extremes.
3. Money flows are the most reliable indicator of future stock price performance. Money flows, which measure the difference between the dollar value of uptick trades versus the dollar value of downtick trades, are the market's indication that it is discounting some future, significant event. Instead of relying solely on fundamental ratios to assess value, money flow analysis looks to what the market itself is signaling about a stock, sector or market.

Investment Approach

Our investment process combines top-down and bottom-up analysis to determine overall net exposure, sector long/short bias, and highest conviction investment ideas. The process combines money flow, technical, and fundamental analysis to determine what we believe to be the most attractive investment opportunities with no preconceived sector or market capitalization bias.

Macro View

We start by developing a macro view of the current market environment and assessing investor sentiment. The goal of the analysis is to assess where we are in the current market cycle, and use history as a guide to determine highest probability outcomes. In developing our macro view, we conduct extensive research and analysis leveraging our vast proprietary database of historical market information and over thirty years of investment experience. We use this macro view to help shape portfolio exposures and position holding periods.

Sector and Group Relative Attractiveness

We use a similar process to assess sector and industry group relative attractiveness. We analyze a variety of factors including money flows, rally-decline status, relative strength, valuation and extensive historical analysis of how a particular sector or industry group tends to perform in a similar market environment (*e.g.*, interest rates, inflation, and economic cycle). The output of this analysis influences sector and industry group long/short bias and identifies potential stock selection themes.

Stock Selection

We use our proprietary process to identify stocks where we believe the prevailing stock price inaccurately reflects the real value of the security. To achieve this objective, we employ a combination of money flow, fundamental and technical analysis.

We use a variety of other factors when analyzing securities including, but not limited to, fundamental factors such as valuation, projected earnings growth, return on equity and analyst sentiment; and technical analysis including overbought/oversold analysis, relative strength and volume analysis. In general, stocks with strong money flows, good fundamentals and strong technical characteristics will be considered for

purchase. Highest conviction long and short ideas will be weighted most heavily in the portfolio subject to portfolio construction and risk management guidelines.

There can be no assurance that any client will be able to achieve its investment objective or avoid losses.

Risks Associated with Our Investment Strategy

The investment strategy described above that we use for the separate accounts covers a wide range of investment types. Material risks involved in the strategy are described below. For a more complete summary of risks inherent in investing in a separate account, please contact us.

Risks Associated with Securities Investments Generally. Investing in securities involves a variety of risks, including the loss of capital. The securities markets generally are affected by, among other things, the state of the economy, inflation rates and unemployment, trade, fiscal and monetary policies and national and international political and economic events.

Risks Associated with Particular Investment Strategies. Our investment strategy and trading techniques may not be successful, and there can be no assurance that any client's account will generate profits or avoid losses.

Leverage. Our strategies may employ leverage. This results in our clients controlling substantially more assets than the equity in their accounts. Leverage increases our clients' returns if their accounts earn a greater return on investments purchased with borrowed funds than the accounts' cost of borrowing such funds. However, the use of leverage exposes our clients to additional levels of risk including (i) greater losses from investments than would otherwise have been the case had our clients not borrowed to make the investments, (ii) margin calls or changes in margin requirements may force premature liquidations of investment positions and (iii) losses on investments where the investment fails to earn a return that equals or exceeds the cost of leverage related to such investments. In the event of a sudden, precipitous drop in value of an account's assets, we might not be able to liquidate assets quickly enough to repay the account's borrowings, further magnifying the losses incurred by the client.

Short Sales. Short selling, or the sale of securities not owned by the client, necessarily involves certain additional risks. Such transactions expose the client to the risk of loss in an amount greater than the initial investment, and such losses can increase rapidly and without effective limit. There is the risk that the securities borrowed in connection with a short sale would need to be returned to the securities lender on short notice. If such request for return of securities occurs at a time when other short sellers of the subject security are receiving similar requests, a "short squeeze" can occur, wherein the client might be compelled, at the most disadvantageous time, to replace borrowed securities previously sold short with purchases on the open market, possibly at prices significantly in excess of the proceeds received earlier.

Risks Associated with Derivative Instruments. We may cause our clients to invest in derivatives for speculative as well as hedging purposes. Derivatives may be defined as financial instruments (such as call options, put options, futures contracts and options on futures contracts) whose performance is derived, at least in part, from the performance of another asset (such as a security, currency or an index of securities). Investments in such instruments involve risks that are different from the investment risks associated with long investments, including a potentially unlimited loss associated with futures transactions, which, in the case of futures contracts, involve agreements to take or make delivery of an amount of cash equal to a specified dollar amount multiplied by the difference between the value of the underlying asset (such as a stock index) at the close of trading of the contract and the price at which the futures contract was originally struck. Derivatives may be exchange traded or traded in over-the-counter ("OTC") transactions between private parties. OTC transactions are subject to additional risks, such as the credit risk of the counterparty to the instrument, and are less liquid than exchange-traded derivatives

since they can only be closed out with the other party to the transaction. Derivative instruments may include elements of leverage and, accordingly, the fluctuation of the value of the derivative instrument in relation to the underlying asset may be magnified. The successful use of derivatives is dependent upon a variety of factors, including, in particular, our ability to correctly anticipate trends in the underlying asset. In addition, there may be an imperfect correlation between a derivative transaction and the objective sought to be achieved in entering into such transaction. Moreover, in unusual market conditions, the derivative may perform in a manner that was not, and could not have been, anticipated.

Exchange Traded Funds. Given that ETFs (which are registered investment companies) are effectively portfolios of securities, we believe that the unsystematic risk associated with investments in ETFs is generally very low relative to investments in ordinary securities of individual issuers. There may be certain risks to the extent a particular ETF is concentrated in a particular sector, and is not as diversified as the market as a whole.

It should be noted that the Investment Company Act of 1940, as amended, places certain restrictions on the percentage of ownership that a private investment fund may have in a registered investment company.

Non-U.S. Securities. We may cause our clients to invest in non-U.S. securities. Investing in securities of non-U.S. governments and companies which are generally denominated in non-U.S. currencies, and utilization of currency forward contracts and options on currencies involve certain considerations comprising both risks and opportunities not typically associated with investing in securities of United States issuers. These considerations include changes in exchange rates and exchange control regulations, political and social instability, expropriation, imposition of non-U.S. taxes, less liquid markets and less available information than are generally the case in the United States, higher transaction costs, less government supervision of exchanges, brokers and issuers, difficulty in enforcing contractual obligations, lack of uniform accounting and auditing standards and greater price volatility.

Debt Securities. We may cause our clients to invest in unrated or low grade debt securities which are subject to greater risk of loss of principal and interest than higher-rated debt securities. We may also direct our clients to invest in debt securities which rank junior to other outstanding securities and obligations of the issuer, all or a significant portion of which may be secured by substantially all of that issuer's assets. We may additionally direct our clients to invest in debt securities which are not protected by financial covenants or limitations on additional indebtedness. In addition, evaluating credit risk for foreign debt securities involves greater uncertainty because credit rating agencies throughout the world have different standards, making comparison across countries difficult.

Small to Medium Capitalization Companies. We may cause our clients to invest a portion of their assets in the stocks of companies with small-to medium-sized market capitalizations. While we believe these investments often provide significant potential for appreciation, such stocks, particularly smaller-capitalization stocks, involve higher risks in some respects than do investments in stocks of larger companies. For example, prices of such stocks are often more volatile than prices of large-capitalization stocks. In addition, due to thin trading in some such stocks, an investment in these stocks may be more illiquid than that of larger capitalization stocks.

High Growth Industry Related Risks. We may cause our clients to invest in the securities of high growth companies. These securities may be very volatile. In addition, these companies may face undeveloped or limited markets, have limited products, have no proven profit-making history, may operate at a loss or with substantial variations in operating results from period to period, have limited access to capital and/or be in the developmental stages of their businesses, have limited ability to protect their rights to certain patents, copyrights, trademarks and other trade secrets, or be otherwise adversely affected by the extremely competitive markets in which they operate.

Lack of Liquidity. The assets in our clients' accounts may, at any given time, include securities and other financial instruments or obligations which are very thinly traded or for which no market exists or which are restricted as to their transferability under applicable securities laws. The sale of any such investments may be possible only at substantial discounts. Further, such investments may be extremely difficult to value with any degree of certainty.

Item 9 – Disciplinary Information

The Company agreed to a settled order with the Securities and Exchange Commission (the "SEC") in which the company neither admitted nor denied SEC allegations that the Company violated Section 206(2) and Rule 206(4)-7 of the Investment Advisers Act of 1940. The entire order can be found at <https://www.sec.gov/enforce/ia-5555-s>.

Item 10 – Other Financial Industry Activities and Affiliations

Material Financial Industry Affiliations of the Firm

Not applicable.

Conflicts of Interest

Each of the separate accounts employs a similar investment strategy, which is described in “Methods of Analysis, Investment Strategies and Risk of Loss,” above. We may in the future participate in or sponsor pooled investment vehicles and have additional separate account clients. We may also determine to engage in other businesses. The existence of such present and future multiple investment vehicles and accounts, or other businesses, may create the material conflicts of interest described below.

Time Commitments. The existence of multiple investment vehicles, accounts and/or clients may create conflicts as to time and resource commitments on the part of our personnel (including Messrs. Birinyi and Rubin). The firm's personnel will devote such time to the investment activities of our clients as the firm deems necessary. As the number of our clients increases, our commitments to our clients may have the effect of reducing the time devoted to the investment activities of each individual client.

Allocation Issues. The existence of multiple clients that generally all invest in the same securities can create a material conflict of interest with respect to the allocation of investment opportunities among accounts. As a general rule, we only invest our clients' assets in securities the demand for which in our clients' accounts is greatly exceeded by the supply available in the market. We allocate investment opportunities among the accounts by applying such considerations as we deem appropriate, including relative size of such accounts, amount of available capital, size of existing positions in the same or similar securities, impact of leverage, investment objective and strategy considerations, including, without limitation, concentration parameters and tax considerations and other factors. As a result of such considerations, allocations among the accounts will not necessarily be *pro rata*. In cases where a limited amount of a security or other instrument is available for purchase, the allocation of such security among the accounts may necessarily reduce the amount thereof available for purchase by the other accounts.

Although clients generally invest in the same securities, the net performance of one client's account may vary materially from that of other accounts as a result of the allocation policies described above, as well as differing expenses, tax considerations, the impact of leverage and other factors.

New Issues. Under our current policy, clients that are “restricted persons,” within the meaning of Financial Industry Regulatory Authority Rule 5130 (the “New Issue Rule”), generally will not participate in profits and losses resulting from an investment in initial offerings of equity securities (“New Issues”). We may modify our policy with respect to New Issues, in our sole discretion. As permitted by the New Issue Rule, should we be paid performance-based compensation in the future, we would be entitled to receive our performance-based compensation on any profits derived in connection with a client’s New Issue purchases. Such an arrangement may be regarded as creating a financial conflict of interest between us and our clients. In particular, non-“restricted-person” clients bear the risk of possibly speculative investments in New Issues, in which we would have no portion of our own capital at risk but receive performance compensation as to any profits derived from such investments.

Item 11 – Code of Ethics, Participation or Interest in Client Transactions and Personal Trading

Code of Ethics

We have established a Code of Ethics pursuant to Rule 204A-1 under the Investment Advisers Act of 1940, as amended, as part of our overall compliance program. The Code of Ethics includes policies and procedures relating to personal securities trading by firm personnel and protection against the misuse of material nonpublic information. The Code of Ethics is designed to prevent, among other things, any improper conduct whenever any potential conflict of interest may exist with respect to any client or account. In addition, the Code of Ethics requires the firm and/or all supervised persons of the firm to safeguard and prevent dissemination of non-public information, to refrain from engaging in self-interested transactions without prior approval, to develop adequate internal accounting controls and maintain proper books and records, and to refrain from insider trading. The Code of Ethics also outlines the duties of care and loyalty that the firm and its supervised persons are required to follow with respect to clients, including our obligation to exercise a high degree of care, to seek best execution, to safeguard client assets, to act in the best interest of clients and to render impartial advice to clients. A copy of the Code of Ethics is available upon written request to Jeffrey Rubin, Chief Compliance Officer, c/o Birinyi Associates, Inc., 59 Wilton Road, Westport, Connecticut 06880.

Interested Transactions

Birinyi and its principals may trade securities for their own accounts, and the records and results of such trading will not be made available to the firm’s clients. Birinyi and its affiliates are free to manage accounts for themselves, their families and any other person, are free to invest on the basis of methods similar or identical to those employed by the firm on behalf of its clients or methods which are entirely different from such methods, and are free to purchase the same securities as the firm’s clients, *provided* that they do not knowingly or deliberately prefer themselves or any other person to the firm’s clients. We will not cause any client to buy or sell securities or other assets from or to the firm or its principals.

Item 12 – Brokerage Practices

Selection of Brokers; Directed Brokerage

We are generally responsible for selecting the broker or brokers through which transactions in our client’s account will be effected. We select brokers for the overall quality of their service and the comparability

of their commissions in the marketplace, based upon the considerable experience of the firm's management personnel.

With respect to the separate accounts, we will generally have the authority to select brokers and to determine the amount of commissions to be paid, subject to principles of best execution. In some cases, a client may direct us to effect transactions in such client's account through a specific broker or brokers. We do not attempt to negotiate commissions with brokers through which we have been directed to effect transactions. Thus, in some transactions, a client who directs us to effect transactions through a specific broker or brokers may pay commissions that are materially higher than the commissions paid by other client for similar transactions or than such client would have paid if such client had not directed us to use a specific broker or brokers. In addition, where we are directed by a client to use a specific broker or brokers, we may not obtain best execution for such client's transactions because we cannot aggregate such client's trades with those of our other clients.

Soft Dollars

We do not make use of soft dollars. If we do determine to make use of soft dollars in the future, we will do so in compliance with the safe harbor provided by Section 28(e) of the Securities Exchange Act of 1934, as amended.

Aggregation of Orders

When we deem the purchase or sale of securities to be in the best interest of more than one client, we may aggregate the securities to be purchased or sold by all such clients' accounts in order to obtain superior execution or lower brokerage expenses. As a general matter, execution prices for identical securities purchased or sold on behalf of multiple accounts or through multiple transactions that are part of a single "trade" on behalf of a client or group of clients will be averaged. Execution prices for identical securities purchased or sold as parts of unrelated trades will generally not be averaged.

Item 13 – Review of Accounts

Portfolio holdings of each client's account are monitored daily by Laszlo Birinyi, Jeffrey Rubin, our Director of Research, Portfolio Manager and Chief Compliance Officer and Collin Monsarrat, our Head of Trading.

Clients with separate accounts directly own the assets in the separate accounts and have the primary relationship with the custodian holding their assets. These custodians send such clients brokerage statements regarding the assets in their accounts. These reports list the account positions, activity in the account over the covered period, and other related information. Clients are also sent confirmations following each brokerage account transaction unless receipts of confirmations has been waived by the client. We will issue unaudited quarterly reports to clients that have separate managed accounts.

Item 14 – Client Referrals and Other Compensation

We do not currently have any formal arrangements directly or indirectly with any person for client referrals. We do not receive any economic benefit from any person that is not a client for providing investment advice or other services to our clients.

Item 15 – Custody

With respect to separate accounts, brokerage statements are generated not less than quarterly. These statements are sent directly to the client by the account custodian. These reports list the account positions, activity in the account over the covered period, and other related information. Clients are also sent confirmations following each brokerage account transaction unless receipt of confirmations has been waived by the client. We will not issue separate statements with respect to such accounts. Clients should carefully review statements they receive from the custodian. We will issue unaudited quarterly performance reports to clients that have a separate managed account.

Item 16 – Investment Discretion

A description of the investment discretion that we and our clients exercise with respect to the separate accounts is included in “Advisory Business – Types of Advisory Services,” above.

We generally exercise investment discretion pursuant to power of attorney that is granted by each separate account client as part of the investment advisory agreement relating to each such client.

Item 17 – Voting Client Securities

Birinyi has established a set of “Proxy Voting Policies and Procedures” that are designed to ensure that the firm complies with the Advisers Act and Rule 206(4)-6 thereunder. Under the Advisers Act, an adviser owes each of its clients duties of care and loyalty with respect to all services undertaken on the client’s behalf, including proxy voting. To satisfy its duty of care, an adviser with proxy voting authority must monitor corporate events and must, except in unusual circumstances, vote proxies. To satisfy its duty of loyalty, an adviser must ensure that no conflict of interest interferes with the adviser’s ability to vote proxies in a client’s best interests. Rule 206(4)-6 under the Advisers Act requires all federally registered investment advisers that exercise voting authority over client proxies to adopt policies and procedures reasonably designed to ensure that the adviser votes proxies in the best interests of its clients.

These Proxy Voting Policies and Procedures apply whenever a client has, whether implicitly or expressly, granted us the authority to vote proxies on its behalf. In some cases, the client’s agreement with us expressly provides that we shall have the power to vote proxies. Where the client has entrusted us with full discretionary authority over its account, the grant of discretionary authority implicitly includes the authority to vote proxies. Clients with separate accounts have the option of receiving proxy voting information directly, in which case we will not vote proxies in respect of securities held in their accounts.

We vote proxies with respect to securities held in a client’s account in the manner that we believe is in that client’s best interests. Unless otherwise instructed by a client, we believe that the maximization of the value of a client’s investments constitutes the client’s best interests. Our specific policies with respect to certain specific types of voting decisions are set forth in the Proxy Voting Policies and Procedures, a copy of which will be provided upon request. Where we believe that it is in a client’s best interests, we will deviate from the general approaches summarized in the Proxy Voting Policies and Procedures.

All proxy materials we receive are noted by Jeffrey Rubin (the “Proxy Coordinator”) in our “Proxy Log.” The Proxy Log contains the following information: (i) the security for which a proxy is sought, (ii) the deadline for voting the proxy, (iii) the client account or accounts holding the security, (iv) whether we have authority to vote the proxy, (v) whether a material conflict exists with regard to the matters raised by

the proxy materials and a description of the actions taken with respect to such conflict, (vi) the date the proxy was voted, (vii) a record of the vote(s) made and (viii) a record of the basis on which votes were made.

Upon request by a client, we will provide the client with information regarding how we voted with respect to securities held in the client's account and a copy of these Proxy Voting Policies and Procedures.

Item 18 – Financial Information

We have included herewith our most recent audited balance sheet.