

# Form ADV Part 2A

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## Uniform Application for Investment Adviser Registration

### PEAK CAPITAL MANAGEMENT LLC

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March 31, 2021

This brochure provides information about the qualifications and business practices of Peak Capital Management LLC, hereinafter referred to throughout this brochure as “PCM”, “We”, “Us” and “Our”. If you have any questions about the contents of this brochure, please contact us at (720) 361-4016 and/or [geliason@sk-llc.com](mailto:geliason@sk-llc.com). 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 Peak Capital Management also is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). The SEC’s website also provides information about any persons affiliated with PCM who are registered, or are required to be registered, as investment advisor representatives of PCM. You can search this site by a unique identifying number, known as a CRD number. Our firm’s CRD number is 141488. PCM is a registered investment advisor. Registration as an Investment Advisor does not imply any level of skill or training. The oral and written communications of an Advisor provide you with information about which you determine to hire or retain an Advisor.

## Item 2 - Material Changes

Peak Capital Management LLC is hereinafter referred to throughout this brochure as “PCM”, “We”, “Us” and “Our”. This version of the brochure includes changes, which may be material, to the version of the brochure in the annual amendment of Form ADV dated March 30, 2020 previously filed:

Item 10 has been amended to include new affiliations, Kairos SKK EnviroKure GP, LLC and SKK Hedge Strategies GP, LLC, which have been formed to control private funds advised by Shepherd Kaplan Krochuk, LLC, the parent of PCM.

Item 18 has been amended to reflect the firm’s participation in the CARES Act Paycheck Protection Plan loan program.

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## Item 4 - Advisory Business

### Business Background

Peak Capital Management, LLC (“PCM”) was formed in June 2007 as a Limited Liability Company (LLC) and is registered as an investment advisor with the Securities and Exchange Commission. Effective April 2013, the principal owners were Brian Lockhart and Geoff Eliason.

In February 2020 PCM was acquired by Shepherd Kaplan Krochuk, LLC, a Boston-based investment adviser registered with the SEC, which is now PCM’s sole Managing Member. Brian Lockhart remains as Chief Investment Officer and also became Chief Executive Officer of PCM following the acquisition, and he also holds an indirect minority membership interest in SKK, a direct membership interest in SKK Group, LLC, which serves as the managing member of the general partner or manager of a number of SKK-affiliated funds and is a member of SKK’s Management Board. Geoff Eliason remains PCM’s Chief Compliance Officer and also became Chief Operating Officer following the acquisition. Although service enhancements have been implemented, the PCM team remains in place and the acquisition has not resulted in material changes to the services being provided by PCM to its clients. More information can be obtained about SKK in its Form ADV Part 2A brochure available at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). Also, see Items 10 and 11 of this brochure for additional information regarding our relationship with SKK.

PCM develops investment strategies designed to manage risk utilizing an absolute return philosophy. The basis of these strategies is to seek an investment return less dependent on the returns in the stock and fixed income markets, while seeking to reduce volatility.

### Advisory Services

#### Investment Management

Advisory services are tailored to meet the individual needs of clients with the use of Risk Tolerance Confirmation (“RTC”), which is a tool that PCM uses to classify each client into risk tolerance levels including: aggressive, moderately aggressive, moderate, moderately conservative, and conservative. Client funds are invested into models or other investments that are appropriate to their specific risk tolerance. In limited circumstances, PCM may recommend allocations to models and/or investments with a different risk profile than the one identified in the client’s RTC, such as when the client holds other assets not managed by PCM, which PCM’s recommended allocation seeks to counterbalance, e.g., PCM might recommend conservative investments to a client which expressed a moderate risk tolerance, to balance a client’s holding of aggressive assets held outside PCM managed accounts. PCM’s models are diversified, multi-strategy equity and fixed income portfolios that are tactical in nature and hold combinations of individual stocks, exchange-traded funds (“ETFs”), mutual funds, U.S. treasury obligations, and/or short funds.

#### Sub-Advisory and Research Services

PCM’s management of diversified portfolios primarily utilizing exchange-traded funds, individual stocks, and mutual funds enables other registered investment advisors to engage PCM in a sub-advisory and/or signal provider capacity, which permits them to allocate their clients’ assets into model investment portfolios designed and managed by PCM. These models incorporate ETFs, individual stocks, mutual funds, U.S. treasury obligations, and/or short funds. Such advisors retain fiduciary responsibility for their clients, and PCM’s services are provided pursuant to agreements with such advisors and not with their clients. In these circumstances, PCM typically charges a sub-advisory fee to the advisor that is a percentage of the assets allocated to PCM models, but its fee may include minimum fees and/or fixed

amounts. These sub-advisory arrangements may be negotiated directly with advisors, or in other circumstances PCM may allow advisors to allocate client funds into PCM models through third-party platforms facilitating such allocation.

#### Financial Planning

As part of its service offerings, PCM offers financial planning with respect to estate, retirement, and tax plans. Clients are under no obligation to contract for a financial plan service in order to receive investment management and may contract for financial planning without utilizing investment management services.

The initial financial planning engagement will include the following services:

- Review of the Client's personal and financial goals
- Net worth calculations and cash flow analysis
- Projection and estimation of federal and state income taxes
- Estate planning review
- Retirement income planning
- Investment portfolio evaluation and recommendations
- Education and succession planning, where appropriate

#### **Tailored Services**

We offer investment advice to every client based upon their specific circumstances, including investment objectives, financial goals, and risk tolerance. Clients may impose restrictions on investing in certain securities or types of securities by providing in writing, and within 30 calendar days of advance notice, specific restrictions they wish to impose.

#### **Participation in Wrap Fee Program**

We do not participate in a wrap fee program.

#### **Regulatory Assets Under Management**

As of December 31, 2020, PCM managed client assets totaling approximately \$192,547,641. All of PCM's regulatory assets under management are managed on a discretionary basis.

#### **Assets Under Advisement**

Assets under advisement refer to assets on which our firm provides advice or consultation but for which we either do not provide regular and continuous supervisory or management services or do not arrange or effectuate the transaction.

There is no requirement to disclose the assets under advisement figure, but we have opted to include the figure to give prospective clients a more complete picture of the firm's responsibilities.

The Firm had approximately \$188,474,652 in assets under advisement for 22 accounts.

## Item 5 - Fees and Compensation

### **Advisory Fees**

Generally, PCM is compensated for its services with an asset-based fee, paid quarterly in advance. Annualized fees generally range from 60 basis points or .6% to 100 basis points or 1% of assets under management or advisement based on the level of assets under management or advisement and other considerations. All fees are subject to negotiation. In order to effectively execute its investment strategies PCM requires a minimum investment of \$500,000. In certain situations, PCM may waive this minimum.

Some custodians do not facilitate billing in advance, and as a result, clients whose assets are held at such custodians will be billed in arrears. For example, for clients whose assets are held at SEI, PCM is compensated for its services with an asset-based fee, paid quarterly in arrears.

### Sub-Advisory Services

PCM is compensated via third-party investment advisors as a portion of a percentage of assets under management (AUM) paid by their client for sub-advisory services. Fees paid to PCM by other advisors are generally 35 basis points on an annualized basis but can go up to 55 basis points with certain strategies.

PCM services as a provider of research and/or trade signals to certain third-party investment advisors. Its fee for such services generally ranges from 10 basis points to 35 basis points billed quarterly on an annualized basis.

### Financial Planning

The fees for financial planning are billed under a flat rate based on the extent and nature of the plan. Typically, fees for financial planning range from \$500 to \$15,000 based on the complexity of the services to be rendered and/or written financial plan. These services are provided under a separate agreement outlining the scope of the services, fees agreed upon and terms/conditions.

### **How Fees are Paid**

#### Investment Management

The custodian that holds a particular clients' assets can determine the procedure by which PCM may deduct fees from such account. On a quarterly basis, each household's assets are measured relative to the fee schedule. Quarterly fees will be calculated and applied each quarter based on the household balance.

For clients whose assets are held at Charles Schwab, fees are automatically deducted from account balances on the first business day of each quarter, billed in advance, based on the assets under management on the last trading day of the prior quarter. Fees are calculated by multiplying the Client's account value as of the last day of the previous quarter by the Annual Fee Percentage stated on the Investment Management Agreement, divided by 4.

For clients whose assets are held at SEI, fees are automatically deducted from account balances on the last business day of each quarter, billed in arrears, based on the assets under management on the last trading day of the current quarter. Fees for these clients are calculated by multiplying the Client's account value as of the last day of the current quarter by the Annual Fee Percentage stated on the Investment Management Agreement, divided by 4.

For assets held outside the custodian (typically private fund holdings), valuations reported by the fund manager are used to determine the account value multiplied by the annual fee percentage divided by 4 and

billed in arrears each quarter.

PCMs clients receive itemization of fees paid via the custodian-provided statements. Clients also receive, at least quarterly, statements from the custodian showing all disbursements and advisory fees.

#### Financial Planning

This fee will be payable, in full, when the Client receives the final version of their financial plan.

#### **Other Fees/Expenses**

PCM's fees are exclusive of brokerage commissions, transaction fees, and other related costs and expenses, which shall be incurred by the client. Clients may incur certain charges imposed by custodians, brokers, third-party investment advisors and other third parties such as fees charged by managers, custodial fees, deferred sales charges, odd-lot differentials, transfer taxes, wire transfer and electronic fund fees, and other fees and taxes on brokerage accounts and securities transactions. Mutual funds and ETFs also charge internal management fees, which are disclosed in each funds' prospectus/disclosure document. Such charges, fees and commissions are exclusive of and in addition to PCM's fee, and PCM shall not receive any portion of these commissions, fees, and costs.

Advice offered by PCM may involve investment in mutual funds. Load and no-load mutual funds may pay annual distribution charges, sometimes referred to as 12b-1 fees, named after the statutory section authorizing such payments. These 12b-1 fees may be paid to the account custodian but are never transmitted to PCM. Recommendations made by PCM and its' Investment Advisor Representatives (IARs) are designed to be consistent with the best interest of the client.

Please see Item 12 for further description of the factors that PCM considers in selecting or recommending custodians for client transactions and determining the reasonableness of their compensation (e.g., transaction costs).

#### **Termination**

##### Investment Management

PCM will refund to the client any unearned fees within five (5) business days of receipt, in writing, the desire to terminate the Investment Management and Fee Agreement. Fees will be determined on a prorated basis. The client may terminate the Investment Management and Fee Agreement without penalty within five (5) business days of signing the Agreement. Business days do not include federally recognized holidays.

##### Sub-Advisory Services

PCM will refund to the primary advisor any unearned fees upon the termination of the Sub- Advisory Agreement, given thirty (30) days written notice. Fees will be determined and refunded on a prorated basis.

##### Financial Planning

The client may terminate the financial planning agreement within five business days of the date of acceptance without penalty to the client. After the five (5) day period, the financial planning agreement may be terminated in writing before the completion of the plan. The fee will be determined by the percentage of the plan that has been completed.

#### **Commissionable Securities Sales**

We do not sell securities for a commission.

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

PCM does not charge any performance-based fees.

## Item 7 - Types of Clients

### Type of Clients

PCM provides portfolio management services to individuals, high net worth individuals, pension and profit-sharing plans, charitable institutions, foundations, endowments, trust programs, third-party investment advisors and corporations and other business.

### Account Minimums

In order to effectively execute its investment strategies, PCM requires a minimum investment of \$500,000. In certain situations, PCM may waive the investment minimum.

### Pension & Retirement Plans

If a managed account(s) is for (1) a pension or other qualified employee benefit plan, including a 401(k) plan, governed by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”); (2) a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code of 1986, as amended (the “Code”), and not covered by ERISA; or (3) an Individual Retirement Account (“IRA”) under section 408 of the Code, then PCM assumes fiduciary status to the extent required by applicable law. Customarily, where PCM manages a discretionary account, it will assume the role of Investment Manager as defined in Section 3(38) of ERISA.

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

### Methods of Analysis

PCM’s securities analysis methods include charting, fundamental, technical, and cyclical analyses (defined below). Investing in securities involves risk of loss that clients should be prepared to bear.

- Charting – analysis performed using patterns to identify current trend reversals to forecast the direction of prices;
- Fundamental – analysis performed on historical and present data, with the goal of making financial forecasts;
- Technical – analysis performed on historical and present data, focusing on price and trade volume, to forecast the direction of prices; and,
- Cyclical – analysis performed on historical relationships between price and market trends.



PCM's advisory services are designed to build long-term wealth, while maintaining risk tolerance levels acceptable to clients. PCM combines investment objectives, time horizon and risk tolerance to yield an effective investment allocation strategy and then matches the strategy with our investment programs. Our program investments are typically made in open-end mutual funds, ETF's, closed- end funds, individual equities, and occasionally options and individual bonds.

In analyzing and executing our various programs' strategies, we use a technical approach to guide our buy/sell decisions within our allocation process. Technical analysis utilizes current and historical pricing information to help us identify trends in the broader domestic and foreign equity and fixed income markets, and in the underlying assets themselves. This may involve the use of various technical indicators, such as moving averages and trend lines, among others.

### **Investment Models**

We are not bound to a specific investment strategy or ideology for the management of investment portfolios except for how such strategy might affect the pre-designed risk tolerance levels. Each strategy may use cash as a position if volatility exceeds a certain threshold. There are no guarantees that any strategy will achieve its stated objectives.

PCM offers the following investment strategies which incorporate the following methodologies:

#### **Dynamic Risk Hedged - U.S. Growth**

The strategy's primary objective is long-term growth of capital. Generally, the strategy will allocate capital to U.S. equities and Treasuries based on a risk budget. Roughly 95% of total portfolio risk is allocated evenly to five U.S. equity factors - momentum, value, size, quality, and volatility. Roughly 5% of total portfolio risk is allocated to U.S. Treasuries. The strategy dynamically allocates as the correlations and volatilities of the underlying exposures changes over time. Under certain scenarios, if equities and Treasuries become highly correlated, the strategy can use a short position to the S&P 500 as a source of uncorrelated risk.

#### **Dynamic Risk Hedged - Global Growth**

The strategy's primary objective is long-term growth of capital. Generally, the strategy will allocate capital to global equities and U.S. Treasuries based on a risk budget. Roughly 95% of total portfolio risk is allocated evenly to five U.S. equity factors - momentum, value, size, quality and volatility, and geographic regions outside the United States. Roughly 5% of total portfolio risk is allocated to U.S. Treasuries. The strategy dynamically allocates as the correlations and volatilities of the underlying exposures changes over time. Under certain scenarios, if equities and U.S. Treasuries become highly correlated, the strategy can use a short position to the S&P 500 as a source of uncorrelated risk.

#### **Dynamic Risk Hedged - Income**

The strategy's primary objective is income generation. Generally, the strategy will allocate capital to traditional and non-traditional assets that provide current income. Total portfolio risk is roughly equally allocated to investment grade bonds, REITs, preferred stocks, high- yield bonds and dividend-paying stocks. The strategy dynamically allocates across the assets as correlations and volatilities change. Under certain conditions, if correlations rise, the strategy can use a short position to U.S. Treasuries as a source of uncorrelated risk.

#### **Dynamic Risk Hedged - Balanced Income**

The strategy's primary objective is income generation with capital appreciation as a secondary

objective. Generally, the strategy will allocate capital to assets that provide current yield. Total portfolio risk is equally allocated to dividend-paying stocks, REITs, and high-yield bonds. The strategy dynamically allocates across assets as correlations and volatilities change. Under certain conditions, if correlations rise, the strategy can use a short position to the S&P 500 as a source of uncorrelated risk.

**Dividend Equity**

This non-diversified strategy seeks maximum capital appreciation from the equity markets by investing 100% in individual stocks believed to offer a risk/return relationship more attractive than the overall market. Risk is managed by utilizing cash during periods of high market volatility.

**High Quality Capital Appreciation**

The focus of this strategy is to invest in high-quality stocks to receive a higher return on capital, while minimizing volatility and to provide dividend income with the prospect of growth.

**Intrinsic Value**

This strategy implements a value-based investing approach through use of several quantitative criteria.

**Industry ETF Momentum**

The Industry ETF Momentum strategy is a portfolio consisting of equal weightings of the five S&P 500 sub-industry ETFs with the highest trailing 12-month price returns. This list is reevaluated (and rebalanced) monthly.

**Nervous Nelly Global Equity**

This strategy allocates among the low-volatility subsets of global equity benchmarks that have historically delivered higher long-term returns with lower fluctuations in annual performances

**PCM Tax Lien Fund**

The PCM Tax Lien Fund gives investors access to tax liens but is closed to new investors as of March/April 2017 and is now in wind-down. An asset class that is typically only available to large institutions and high net worth clients is now available for accredited investors who seek income and non-correlated total returns. Tax liens within the fund have high, established yields, and are purchased in states where the rule of law favors investors.

**Alternative Investments**

PCM, in certain situations recommends investments in selected private equity funds, hedge funds and/or commodity pools with various investment strategies described in their offering materials (“Alternative Investments”). These types of investments may present enhanced risks due to their customized strategies, use of leverage and lack of liquidity. In addition, such recommendations may be limited only to those clients that are deemed to be termed as “Accredited Investors” as defined in Regulation D under the Securities Act of 1933 or “Qualified Purchasers” as defined in the Investment Company Act of 1940, each as amended. These types of investments also have varied and unique fee structures of their own. Due to the complex nature and risks of these investments, clients will receive a separate disclosure prior to any investments being made. Additionally, PCM’s parent company, SKK, and its affiliates, manage and advise certain Alternative Investments in which some PCM clients have invested and in which PCM clients may invest in the future. SKK has certain business relationships with third party managers of other Alternative Investments which PCM may in some circumstances recommend to its clients. Additional information regarding SKK’s relationship with PCM and Brian Lockhart and conflicts involved in recommendations of

SKK's Alternative Investments to PCM clients is provided in Items 10 and 11 of this brochure.

## Item 9 - Disciplinary Information

In February 2020 Brian Lockhart ("Lockhart") entered into a Stipulation for Consent Order with the Colorado Division of Securities ("Stipulation"). In the Stipulation, the Staff of the Division (the "Staff") alleged that in 2012 and 2013 Lockhart recommended an investment in a movie production company to some advisory clients and others regarding which he, as an Executive Producer, had a material conflict of interest that he maintains he disclosed orally to all of the clients. Multiple clients acknowledged such oral disclosure. The Staff determined that this recommendation was inconsistent with Lockhart's obligations under Division Rule 51-4.8(IA)(K), which requires such disclosures to be made in writing. Under the Consent Order, Lockhart agreed not to violate Rule 51-4.8(IA)(K). No fine or other penalty was assessed.

## Item 10 - Other Financial Industry Activities and Affiliations

As a result of its acquisition by SKK, PCM now has relationships with related persons engaged in certain financial businesses that are material to the advisory business and clients of SKK, and therefore to PCM, as set forth below. Related persons include entities, members, officers, and employees (except administrative staff) controlled by or under common control with SKK. These related persons are primarily the investment advisory subsidiaries of SKK (Shepherd Kaplan LLC ("SK") and PCM) and entities related to the funds that SKK manages and advises.

Where SKK or one of its investment advisory subsidiaries, such as PCM, recommends investments to its or their clients in related businesses, or if SKK and its related persons (including PCM and its officers and employees) invest alongside clients of PCM or investors in businesses or private investment funds, including private investment funds that they manage, or participate in the management or governance of, or receive compensation, including securities, for services from, such businesses or private investment funds, conflicts of interest arise because SKK and its related persons may have interests different from those of PCM's clients. These potential conflicts of interest with clients and investors are described further below in Item 11.

Entity	Function	Entity – Private Investment Company
Shepherd Kaplan Krochuk, LLC	Primary Investment Adviser	
Shepherd Kaplan, LLC	Sub-Investment Adviser	
SKK Closed-End Opportunities GP, LLC	General Partner of	SKK Closed-End Opportunities, LP
SKK Group, LLC	Manager of each GP or Manager listed in the column to the left	
SKK Provident Investors GP, LLC	General Partner of	SKK Provident Investors, LP
PCF Capital Markets, LLC	Broker Dealer	
SKK Real Estate GP II, LLC	General Partner of	SKK RE Ventures Fund II, LP SKK RE Ventures Fund PFD II, LP
SKK Topaz Partners (QP) GP, LLC	General Partner of	SKK Topaz Partners (QP), LP
SKK Topaz Partners GP, LLC	General Partner of	SKK Topaz Partners, LP
SKK Value GP, LLC	General Partner of	SKK Value Fund, LP
SKK Ventures Manager, LLC	Manager of	SKK Ventures, LLC
SKK Ventures QP Manager, LLC	Manager of	SKK Ventures QP, LLC

SKK 9i Ventures Manager, LLC	Manager of	SKK 9i Ventures, LLC
SKK 9i Ventures QP Manager, LLC	Manager of	SKK 9i Ventures QP, LLC
SKK Opportunity Zone Fund I Manager, LLC	Manager of	SKK Opportunity Zone Fund I, LLC
Kairos SKK EnviroKure GP, LLC	General Partner of	Kairos SKK EnviroKure Investors, LP
SKK Hedge Strategies GP, LLC	General Partner of	SKK A.W. Jones Strategies Fund, LP

Samuel Kidston is the sole member and owner of North & Webster SSG, LLC which is an independent consultant through which he provides portfolio management services relating to assets under management by SKK. Mr. Kidston and North & Webster SSG, LLC provide input on potential investments in work-outs, liquidations, spin-offs, reorganizations, and bankruptcies, among other special situations. Investments can be structured through the use of various entities in which SKK management persons can also be involved. Potential conflicts of interest exist insofar as PCM appraises a client or investor to consider an investment in a fund which SKK manages.

PCF Capital Markets, LLC ("PCF Capital") is a registered broker dealer and is owned primarily by Provident Healthcare Partners, LLC ("Provident Healthcare"), a minority equity interest in which is held by SKK Provident Investors, LP, a private investment fund managed by SKK. Stephen Brackett, President and Co-Head of Alternative Investments of SKK, represents the fund on the Board of Managers of Provident Healthcare. SKK's indirect relationship with PCF Capital creates potential conflicts of interest where, among other things, clients of PCF Capital invest in SKK private investment funds, for which PCF Capital is compensated. PCM Capital's parent company, Provident Healthcare, which primarily provides M&A consulting services to private healthcare companies, also receives compensation if it refers wealth management clients to SKK. Provident Healthcare provides M&A consulting services to certain portfolio companies of SKK-affiliated funds. The principal owner of Provident Healthcare has invested in certain SKK-affiliated funds and provided financing to SKK in connection with such investments. SKK believes that its investment process and disclosures in this brochure and to affected clients and investors adequately address such conflicts. See Item 11 below regarding conflicts of interest.

Kairos SKK EnviroKure GP, LLC ("EnviroKure GP") is the General Partner of Kairos SKK EnviroKure Investors, LP ("EnviroKure Investors"), a private investment company that invests in the equity of EnviroKure, Inc., a company that has developed and commercialized a process for turning chicken manure into biofertilizers. EnviroKure Investors has investment advisory agreements with SKK and with Kairos Investment Management Company, LLC ("KIMC"). EnviroKure GP is governed by a board of managers equally controlled by SKK and KIMC. SKK recommends to appropriate clients investments in various KIMC-affiliated real estate funds. Senior officers of KIMC have invested in certain SKK-affiliated funds and a portfolio company of an SKK fund. Conflicts of interests can arise with respect to clients of SKK who may invest in real estate funds affiliated with KIMC and EnviroKure Investors or other affected SKK-affiliated funds as a result of these relationships. SKK believes that its investment process, certain fee adjustments and disclosures in this brochure and to affected clients and investors adequately address such conflicts. See Item 11 below regarding conflicts of interest.

Trellis Software, Inc. ("Trellis") is a technology company that provides services to persons and enterprises that make investments in private securities and/or provide other services of a financial nature. SKK and Timothy Krochuk are minority owners in Trellis. Timothy Krochuk is also the CEO of Trellis and Steve Brackett is on Trellis' board of directors. Timothy Krochuk and Steve Brackett are also indirect owners and on the Management Board of SKK. SKK expects that Trellis will provide technology services to SKK related to investments by SKK wealth management clients and/or third parties in private securities, (i)

which SKK may recommend for investment, (ii) as to which SKK may provide consulting or other services to the issuer, and/or (iii) as to which SKK may establish, manage, or advise private investment funds to facilitate investment in the securities of the issuer.

In 2019 PCM entered into a contract with CFRA Research pursuant to which PCM provides separate accounts, marketing, and distribution services, and receives certain research, analysis, trade signals, and similar services from CFRA. PCM and CFRA engage in certain joint marketing and business development activities, which are intended to benefit both businesses.

In 2020, and continuing into 2021, PCM has established relationships with certain third-party platforms that facilitate the allocation of client funds by registered investment advisors to other investment strategies, models, and/or investment products made available by other financial professionals, including PCM. As of March 30, 2021, PCM has established several such relationships.

In addition to his equity interest in SKK and SKK Group, LLC, Brian Lockhart has additional personal financial interests in SKK Opportunity Zone Fund I Manager, LLC and the SKK Opportunity Zone Fund I, LLC, so he would benefit personally in this regard from a PCM client's investment in that Fund. See Item 11 below regarding conflicts of interest.

PCM is the General Partner and manager of PCM Tax Lien Fund, LP ("Fund"), a private fund that invests in tax liens. The Fund may be offered to advisory clients; however, they are under no obligation to participate. Services offered through this fund are independent of our investment advisory services and are governed under a separate engagement agreement.

## Item 11 - Code of Ethics

### Description of Code of Ethics

The Code of Ethics includes provisions reminding employees of their obligations to clients including being objective, disclosing conflicts of interest, confidentiality of client information, a prohibition on insider trading, a prohibition of rumor mongering, restrictions on the acceptance of significant gifts and the reporting of certain gifts and business entertainment items, and personal securities trading procedures, among other things. All supervised persons at PCM must acknowledge the terms of the Code of Ethics annually, or as amended.

#### Personal Trading by Associated Persons

Officers, employees, and contractors of PCM are allowed to maintain outside securities accounts and participate in PCM programs and therefore may buy or sell securities that PCM is recommending to its clients. In order to monitor such investments, the Code of Ethics establishes certain procedures to follow. Officers, employees, and contractors of PCM who have access to non-public information regarding clients' purchases or sales of securities, are involved in making securities recommendations to clients or who have access to such recommendations that are non-public are considered "access persons". Access persons are required to report transactions and holdings for non-exempt investments held outside of a PCM program. Purchases of non-exempt securities and private placements require pre-approval and purchases of initial public offerings are prohibited.

#### Allocating Resources and Investment Opportunities

Certain affiliated accounts may trade in the same securities with client accounts on an aggregated basis when consistent with PCM's obligation of best execution. In such circumstances, the advisory affiliate

and client accounts will share commission costs equally and receive securities at a total average price. PCM will retain records of the trade order (specifying each participating account) and its allocation, which will be completed prior to the entry of the aggregated order. Completed orders will be allocated as specified in the initial trade order. Partially filled orders will be allocated on a pro rata basis. Any exceptions will be explained on the order.

PCM's clients or prospective clients may request a copy of the firm's Code of Ethics by contacting Geoff Eliason at [geliason@sk-llc.com](mailto:geliason@sk-llc.com).

### **Conflicts of Interest**

Our firm and/or a supervised person may recommend to clients, and buy or sell for client accounts, securities in which our firm or a related person has a material financial interest which may arise from personal investment in other securities of the same issuer, some other employment or director position with the issuer, or a business relationship with the issuer. For example, in addition to his equity interests in SKK and SKK Group, LLC, Brian Lockhart has additional personal financial interests in SKK Opportunity Zone Fund I Manager, LLC and the SKK Opportunity Zone Fund I, LLC, so he would benefit personally in this regard from a PCM client's investment in that Fund. In order to eliminate or mitigate the risk to you associated with such conflicts, all such transactions, including any investments by PCM clients in SKK funds, must be submitted to our Chief Compliance Officer for review and approval in advance. Conflicts and potential conflicts that relate to our affiliation with SKK and other conflicts are described below.

PCM and its access persons and SKK and its access persons may invest in hedge funds, private equity funds and other investments that are also recommended to PCM advisory clients, and PCM advisory client investments in such funds that are sponsored by SKK also benefits SKK and its related parties. PCM's policies and procedures seek to address conflicts or potential conflicts of interest that may arise in such situations as described below.

#### Conflicts Relating to SKK Private Funds and SKK Party Investment Alongside Clients and Investors

SKK, SK, PCM and their members, management board members, officers, employees, and affiliates (collectively called "SKK Parties") invest in private companies or funds alongside clients, participate in management and governance, and receive compensation, including securities, for services from such companies or funds. Conflicts of interest arise in such situations, including for instance:

- A client's investment in a private fund or company introduced or recommended by PCM increases the value of an investment held by an SKK Party;
- A client's investment in a private fund or company in which an SKK Party has also invested provides liquidity to, or otherwise benefits, the private fund or company concerned;
- An SKK Party who has invested alongside a client has access to more information about the investment than the client and sells its position or buys more securities on the basis of that information;
- An SKK Party holds a different position in the company's or fund's capital structure than a client which creates different incentives to vote or take other actions affecting the client's investment;
- An SKK Party's investment involves certain voting rights or confers other powers to influence or participate in the governance of the investee company or fund which may differ from those of a client investor. Those rights and powers can result from serving as a director or officer of an investee company or fund, in which case the member or employee would be obligated to serve the interests of the company or fund, rather than the interests of any advisory client who has invested in that company or fund; or
- An SKK Party is compensated for serving on the board or as an officer of a company or fund in which PCM advisory clients have invested or serves in a consulting or advisory capacity. The receipt of such



compensation, or the manner in which compensation arrangements are structured, may create incentives for such an SKK Party to act in a manner that does not prioritize the interests of advisory clients that are invested in the company or fund. For example, SKK serves as a co-developer of a real estate project in which an SKK affiliated fund invests and has provided consulting services and received compensation from a company in which SKK clients have invested and which subsequently became a portfolio company of an SKK fund.

#### Outside Business Interests

To the extent that any SKK Party is involved in other businesses or occupations, potential conflicts of interest can arise with respect to the management of assets for investment advisory clients and investors in SKK-sponsored funds. For example, if an SKK employee is a director, officer or equivalent of a publicly traded company, or of a privately held operating company recommended to, and held in the portfolio of, a client, the employee is exposed to non-public, material information about the outside company or other companies which negatively affects the employee's trading flexibility in managing client assets. Also, the employee receives compensation, including securities, from such company, which creates a bias in favor of the company. Conflicts of interest could arise because the employee could cause accounts managed by the employee to invest in a manner that favors his business interests. Accounts managed by the employee might acquire interests in businesses that are significant existing or potential customers or suppliers to an outside business of the employee. The accounts managed by the employee might seek to acquire assets that the other business also seeks to acquire.

#### Other Conflicts

SKK and PCM will provide appropriate clients or investors with information and/or advice about investments in one or more of SKK's private fund offerings or other investment opportunities with which SKK has a business relationship. Because of the potential conflicts of interest arising from such investments, it is incumbent upon such clients to independently evaluate such investments if they wish to pursue them. SKK believes that its investment process, certain fee adjustment and disclosures in this brochure and to affected clients and investors adequately address such conflicts.

Many conflicts of interest arise between and among the various entities and persons involved in the investment advisory services provided by SKK Parties, including clients, investors in the SKK Funds, companies that issue securities acquired or sold by clients or the SKK Funds, or their respective employees, executives or affiliates, brokers who trade securities on behalf of clients or the SKK Funds, third parties such as custodians and administrators who provide services to the SKK Parties or the SKK Funds, and other persons or entities in the financial industry. Without limitation for example:

- an SKK Party, client or SKK Fund may invest in an unrelated company, mutual fund or private investment fund and an employee of such unrelated company, mutual fund or private investment fund may be a client of SKK or PCM or invest in an SKK Fund.
- SKK and PCM have recommended that clients invest in unrelated private funds that (i) have directly or indirectly extended credit to or invested in a company in which SKK Parties have invested and (ii) through an affiliate of the fund, invested in SKK Funds or joint ventured with SKK in other projects.
- SKK and PCM clients and other investors have invested in an SKK-affiliated fund that invests in a company that provides services to other SKK-affiliated fund portfolio companies and whose affiliates provide financing to and invest in other SKK Parties.
- SKK and PCM clients may invest in an ETF in which SKK has an indirect economic interest and other business dealings with entities that control the ETF.
- SKK clients, with the paid assistance of SKK, have provided financing to portfolio companies of an SKK-affiliated fund.

These examples are only indicative in general of the kinds of potential conflicts that exist. With the various interrelationships among the SKK Parties, with clients, investors in the SKK Funds, companies in which investments are made, and third-party service providers on the one hand, and the changing nature of the relationships and circumstances on the other hand, further conflict scenarios will likely arise.

#### Conflict Mitigation

SKK, SK and PCM will take steps that they reasonably believe will mitigate any material conflicts noted above that might arise. SKK and SK believe that potential conflicts are mitigated by their investment process and appropriate fee adjustments, and they will provide disclosures to clients and investors regarding conflicts and potential conflicts, as necessary. Additionally, executive management and compliance personnel meet regularly to address conflicts and other compliance issues, which facilitates the identification, analysis, and remediation of perceived and potential conflicts. Any material conflicts of interest that arise are discussed and resolved on a case-by-case basis by senior personnel of SKK, SK and PCM.

## Item 12 - Brokerage Practices

### **Selecting or Recommending Broker-Dealers/Custodians**

PCM is authorized to determine the broker or dealer or custodian to be used for each securities transaction for the accounts under its discretionary management unless otherwise arranged with the client. PCM's policy is to seek the best overall execution of purchase or sale orders and the most favorable net prices in securities transactions, while giving due consideration to all the relevant circumstances that affect the trade, as more fully described below. In selecting brokers or dealers or custodian, PCM considers and gives weight as it deems appropriate to the integrity and financial responsibility of the broker or dealer or custodian, the execution capabilities and responsiveness of the broker or dealer or custodian, the market where the transaction is to be completed, and whether the transaction is a principal or agency trade. In addition, consideration is given to the specialized expertise that a broker or dealer or custodian has with a type of security (*e.g.*, options, high yield bonds, or non-U.S. securities), the manner in which the broker or dealer or custodian may handle a less liquid security, and the market information available to the broker or dealer or custodian. PCM also considers the competitiveness of the commission rates in agency trades, or the net prices in principal trades, as well as the difficulty of the execution or security positioning in light of prevailing market conditions. The quality of the broker's or dealer's or custodian's back-office clearance and settlement systems, and the compatibility of their systems with the systems of PCM, are similarly important.

PCM may engage service providers to assist with brokerage determinations as it deems appropriate.

### **The Custodians and Brokers We Use**

PCM does not maintain custody of your assets that we manage (although we may be deemed to have custody of your assets if you give us authority to withdraw assets from your account (see **Item 15 Custody**). Your assets must be maintained in an account at a "qualified custodian," generally a broker-dealer or bank.



**Your Custody and Brokerage Costs**

For clients' accounts, the Custodians we recommend generally do not charge you separately for custody services but instead are compensated by charging you commissions or other fees on trades that it executes or that settle into your account with them. These custodians' commission rates and asset-based fees applicable to our client accounts were negotiated based on our commitment to maintain a minimum amount of our clients' assets equity in accounts at the Custodian. This commitment benefits you because the overall commission rates and asset-based fees you pay are lower than they would be if we had not made the commitment.

**Research and Other Soft Dollar Benefits**

Some brokers or dealers provide additional brokerage and research services which supplement their execution services. In selecting a broker or dealer for a trade, PCM may give weight to such supplemental services that have been provided in the past or may be provided in the future. However, PCM will not give any weight to supplemental services provided by a broker or dealer in connection with trades on behalf of its wealth management clients, including retirement plans and other clients subject to ERISA. Such other research services may include, but are not limited to, research reports; software providing analysis of securities portfolios; attendance at certain seminars and conferences; discussions with research analysts; meetings with corporate executives; data services (including company financial data); and advice from brokers on order execution. Such other brokerage services may include, but are not limited to, services and software related to the execution and settlement of securities transactions (e.g., connectivity services between an investment manager, a broker-dealer, and custodians, among others); trading software operated by a broker-dealer to route orders; and software that provides trade analytics. Brokerage and research services can include both proprietary services created or developed by the broker-dealer and third-party services created or developed by an unrelated source.

Some brokerage and research services may benefit PCM's clients as a whole, while others may benefit only specific accounts or a limited number of accounts. In general, most services will benefit multiple accounts. Commissions generated by a given account may or may not be related to services directly benefiting it. PCM does not seek to allocate benefits to client accounts proportionately to the brokerage credits the accounts generate.

PCM has no binding contracts with any broker or dealer as to the amount of business which the broker or dealer will receive for brokerage or research services supplied to PCM. To the extent that commissions and/or fees are paid which are higher than commissions and/or fees in the industry for the same transaction in like circumstances, and to the extent such commissions and/or fees are for, or construed to be for, brokerage and research services which are over and above the trade execution services provided, PCM believes that such commissions and/or fees are not unreasonable and are permissible under Section 28(e) of the Securities Exchange Act of 1934, when viewed in terms of PCM's overall responsibilities with respect to the accounts managed. In the case of the purchase of fixed income securities in underwriting transactions, PCM may similarly place orders with brokers or dealers which have provided PCM with brokerage and research services. The commissions and fees include markups, markdowns, commission equivalents and any other fees or transaction costs paid to a broker or dealer in connection with the execution of an agency or principal trade, as allowed under the authority or regulatory guidance in this area.

When PCM uses client brokerage commissions (or markups or markdowns) to obtain brokerage or research services, PCM receives a benefit because PCM does not have to pay for the brokerage and research services. PCM may have an incentive to select a broker-dealer based on PCM's interest in receiving the brokerage or research services, rather than on the client's interest in receiving most favorable execution.

The placement of transactions for client accounts with a particular broker-dealer can be very subjective based on a consideration of many factors as described above.

**Brokerage for Client Referrals**

PCM does not receive brokerage commissions or transaction fees for client referrals.

**Directed Brokerage**

In the event that a client of PCM requests that orders for the client's account be directed to specific brokers or dealers, PCM will attempt to abide by the request to the extent practical under the circumstances. A client who requests the use of a particular broker or dealer may, however, lose the possible benefits (more favorable price or lower commission or other transaction costs), that other clients derive from the bundling of orders for multiple accounts.

**Aggregation of Orders**

PCM will process block trades of securities in multiple client accounts where possible and when advantageous to the client. Block trading of assets from multiple client accounts may decrease costs and allows PCM to execute trades in a timely manner. The objective is to allocate the executions in a manner that is deemed equitable to the accounts involved. In addition, following the completion of a block trade, the transaction costs are shared equally amongst all client accounts included in the block trade.

## Item 13 - Review of Accounts

Brian D. Lockhart, Chief Investment Officer, Geoff Eliason, Chief Compliance Officer, and Clint Pekarul, Head of Research are responsible for the formulation and implementation of investment strategies under the oversight of PCM's investment committee. As a result, they review accounts on a regular and continuous basis, including the confirmation of executed transactions. Each individual account is reviewed no less than quarterly as to its' position in relation to the overall strategy.

In addition, significant deposits and/or withdrawals of assets from accounts will trigger a review to confirm the security weightings within the overall strategy. At least annually, each client's financial position is reviewed to ensure that the investment strategy being pursued is accurate.

PCM will only deal with custodians that provide client statements, no less than quarterly and provide a complete transaction history during the reporting period, including all deposits withdrawals, purchases, and sales. Regular meetings and consultations with clients, in person or by telephone may be held as needed.

## Item 14 - Client Referrals and Other Compensation

**Economic Benefits**

Other than described in Item 12 above, PCM does not receive any additional economic benefits.

**Client Referrals**

In accordance with SEC 206-4-3 Advisor's Act, PCM may pay a solicitor fee, at a rate to be negotiated, to registered broker-dealers, investment advisors or sales representatives in accordance with the terms of a written Solicitor Agreement and after execution of a written Solicitor Disclosure Statement by each client of such persons. The solicitor fees paid by PCM are done so from the investment advisory fee paid by the client. The payment of a solicitor fee will not increase the investment advisory fee paid by the client, nor will the absence of paying a solicitor fee decrease the investment advisory fee paid by the client. Solicitors are only authorized to work with potential clients in an impersonal fashion.

**Item 15 - Custody**

As manager of PCM Tax Lien Fund, LP, PCM is deemed to have custody of the cash and securities held by this Fund. In compliance with SEC Rule 206(4)-2(b)(4)(i), the Fund sends an audited financial statement, audited by a registered Public Company Accounting Oversight Board ("PCAOB") accountant, to each Fund investor within 120 days of the Fund's fiscal year end. By ensuring these steps are followed, PCM's annual surprise examination requirement is satisfied.

Clients should receive at least quarterly statements from the qualified custodian that holds and maintains client's investment assets. PCM urges you to carefully review such statements and compare such official custodial records to the account statements that we may provide to you. Our statements may vary from custodial statements based on accounting procedures, reporting dates, or valuation methodologies of certain securities.

**Item 16 - Investment Discretion**

Generally, clients provide written authorization to PCM and its advisory representatives to grant discretionary authority over the securities and the amount of securities bought or sold on the client's behalf. In all cases, such discretion is to be exercised in a manner consistent with the stated investment objectives for the particular client account. Investment guidelines and restrictions must be provided to PCM in writing. PCM and/or its representatives may buy or sell securities for itself that it also recommends to its advisory clients.

**Item 17 - Voting Client Securities**

As a matter of firm policy and practice, PCM does not have any authority to and does not vote proxies on behalf of advisory clients. Clients retain the responsibility for receiving and voting proxies for any and all securities maintained in client portfolios. Any ownership communications will be forwarded to the client for review and/or voting. PCM may provide advice to clients regarding the clients' voting of proxies.

**Item 18 - Financial Information**

In the first quarter of 2020, the unprecedented events surrounding the world-wide COVID-19 pandemic resulted in significant market dislocations and global financial losses across all equity and fixed income securities markets. In order to stabilize businesses across the US, the federal government implemented a financial stimulus plan which included the provision of Payroll Protection Plan ('PPP') loans to businesses in an effort to provide some financial support during this period of economic uncertainty. In addition to

the near-term threat to revenue posed by the prospect of continued market volatility, PCM wanted to prepare for the economic dislocations and possible medium-term challenges presented by COVID-19 related to revenue and access to credit. PCM opted to accept a PPP loan in the amount of \$31,200. The PPP loan is intended to provide financial support that will help ensure that PCM will be able to retain current staff, including advisory personnel, and maintain operations throughout this challenging period. On December 21, 2020, PCM was informed that the above-described PPP loan had been forgiven. PCM believes that it has the financial resources to perform its obligations to its clients.

**- END OF BROCHURE -**