



**Brochure**

**Form ADV Part 2A**

**Creekside Capital, Inc.  
CRD# 108972**

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**March 10, 2022**

This Brochure provides information about the qualifications and business practices of McBrearty Capital Management, Inc. dba Creekside Capital, Inc. If you have any questions about the contents of this Brochure, please contact us at (865) 693-5300 or [office@creeksidecapitalinc.com](mailto:office@creeksidecapitalinc.com). The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state authority.

Creekside Capital, Inc. is an investment advisory firm registered with the appropriate regulatory authority. Registration does not imply a certain level of skill or training. Additional information about Creekside Capital, Inc. also is available on the SEC's website at [www.AdviserInfo.sec.gov](http://www.AdviserInfo.sec.gov).

## Item 2 Material Changes

Form ADV Part 2 requires registered investment advisers to amend their brochure when information becomes materially inaccurate. If there are any material changes to an adviser's disclosure brochure, the adviser is required to notify you and provide you with a description of the material changes.

Since the filing of our last annual updating amendment, dated March 15, 2021, we have the following material changes to report:

- We have updated the brochure to include the types of investments we typically offer advice on and to further disclose that because our investment strategies and advice are based on each client's specific financial situation, the investment advice we provide to one client may be different or conflicting with the advice we give to other clients regarding the same security or investment. Refer to Item 4.
- We have updated our brochure to disclose and acknowledge that when we provide investment advice to you regarding your retirement plan account or individual retirement account, we are fiduciaries under ERISA and/or the IRC as applicable. For more information on this topic, including inherent conflicts of interest, and our compliance with Prohibited Transaction Exemption 2020-02 ("PTE 2020-02") refer to Item 4.
- We have updated the brochure to explain the risks associated with the different types of securities we typically recommend and advise on. Refer to Item 8 for more information.
- We have updated the brochure to disclose the conflict of interest that arises when our firm or persons associated with our firm buy or sell the same securities that we recommend to you or securities in which you are already invested in. For more information, including how we mitigate the conflict of interest, refer to Item 11.
- We have updated our brochure to clarify that our account reviews will occur on at least an annual basis. Refer to Item 13 for more information.
- We have rewritten the *Custody* section and recommend you review Item 15 in its entirety. The notable revisions include: 1) Clarifying our ability to deduct our advisory fee from clients' accounts causes our firm to have limited custody over your funds or securities. 2) Clarifying that while our standing letters of authorization imputes custody to our firm, we do not have to obtain a surprise annual audit, as we otherwise would be required to, because we comply with the 7 conditions outlined in Item 15. 3) We have removed all references that Creekside Capital may act as a Trustee, Executor, Personal Representative and/or maintain general power of attorney over the client's account(s). Creekside Capital will not serve in any of these capacities to client accounts.

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## Item 4 Advisory Business

### General Information

McBrearty Capital Management, Inc. was formed in 2000 and provides portfolio management and general consulting services to its clients under the name Creekside Capital, Inc. ("Creekside Capital").

Martin T. McBrearty and Rachel J. Hacker are the principal owners of Creekside Capital. Please see **Brochure Supplements**, Exhibit A, for more information on these principal owners and other individuals who formulate investment advice and have direct contact with clients, or have discretionary authority over client accounts.

As of December 31, 2021, Creekside Capital managed no assets on a discretionary basis, and \$226,923,478 of assets on a non-discretionary basis.

### **SERVICES PROVIDED**

At the outset of each client relationship, Creekside Capital spends time with the client, asking questions, discussing the client's investment experience and financial circumstances, and reviewing options for the client. Based on its reviews, Creekside Capital generally develops with each client:

- a financial outline for the client based on the client's financial circumstances and goals, and the client's risk tolerance level (the "Financial Profile" or "Profile"); and
- the client's investment objectives and guidelines (the "Investment Plan" or "Plan").

The Financial Profile is a reflection of the client's current financial picture and a look to the future goals of the client. The Investment Plan outlines the types of investments Creekside Capital will recommend on behalf of the client to meet those goals. The Profile and the Plan are discussed regularly with each client, but are not necessarily written documents.

Where Creekside Capital provides general consulting services, Creekside Capital will work with the client to prepare an appropriate summary of the specific project(s) to the extent necessary or advisable under the circumstances.

### Portfolio Management

As described above, at the beginning of a client relationship, Creekside Capital meets with the client, gathers information and performs research and analysis as necessary to develop the client's Investment Plan. The Investment Plan will be updated from time to time when requested by the client, or when determined to be necessary or advisable by Creekside Capital based on updates to the client's financial or other circumstances.

To implement the client's Investment Plan, Creekside Capital will manage the client's investment portfolio on a non-discretionary basis. In such situations, clients must be contacted prior to the execution of any trade in the account(s) under management. This may result in a delay in executing recommended trades, which could adversely affect the performance of the portfolio. This delay also normally means the affected account(s) will not be able to participate in block trades, a practice designed to enhance the execution quality, timing and/or cost for all accounts included in the block. In a non-discretionary arrangement, the client retains the responsibility for the final decision on all actions taken with respect to the portfolio.

Notwithstanding the foregoing, clients may impose certain written restrictions on Creekside Capital in the management of their investment portfolios, such as prohibiting the inclusion of certain types of investments in an investment portfolio or prohibiting the sale of certain investments held in the account at the commencement of the relationship. Each client should note, however, that restrictions imposed by a client may adversely affect the composition and performance of the client's investment portfolio. Each client should also note that his or her investment portfolio is treated individually by giving consideration to each purchase or sale for the client's account. For these and other reasons, performance of client investment portfolios within the same investment objectives, goals and/or risk tolerance may differ and clients should not expect that the composition or performance of their investment portfolios would necessarily be consistent with similar clients of Creekside Capital.

#### Separate Account Managers

When appropriate and in accordance with the Investment Plan for a client, Creekside Capital may recommend the use of one or more Separate Account Managers, each a "Manager". Having access to various Managers offers a wide variety of manager styles, and offers clients the opportunity to utilize more than one Manager if necessary to meet the needs and investment objectives of the client. Creekside Capital will recommend the Manager(s) it deems most appropriate for the client. Factors that Creekside Capital considers in recommending Managers generally includes the client's stated investment objective(s), management style, performance, risk level, reputation, financial strength, reporting, pricing, and research.

The Manager(s) will generally be granted discretionary trading authority to provide investment supervisory services for the portfolio. Creekside Capital will not terminate the Manager's relationship or to add new Managers without specific client consent. With respect to assets managed by a Manager, Creekside Capital's role will be to monitor the overall financial situation of the client, to monitor the investment approach and performance of the Manager(s), and to assist the client in understanding the investments of the portfolio.

In instances where the services of one or more Managers are utilized, the fee will be charged in addition to Creekside Capital's fee.

Additionally, certain Managers may impose more restrictive account requirements than Creekside Capital, billing practices may vary. In such instances, Creekside Capital may be required to alter its corresponding account requirements and/or billing practices to accommodate those of the Manager(s).

#### Third Party Wrap Programs

From time to time and in accordance with the Investment Plan for a client, Creekside Capital may utilize the separate account managers available in a Third Party Wrap Program. A Wrap Program is one that charges one fee (the "wrap fee") for both the Manager's fee and the transaction expenses incurred by the account. Creekside Capital's fee is charged separately from and in addition to the wrap fee.

#### General Consulting

In addition to the foregoing services, Creekside Capital may provide general consulting services to clients. These services are generally provided on a project basis, and may include, without limitation, minimal cash flow planning for certain events such as education expenses or retirement, estate planning analysis, income tax planning analysis and review of a client's insurance portfolio, as well as other matters specific to the client as and when requested by the client and agreed to by Creekside Capital. The scope and fees for consulting services will be negotiated with each client at the time of engagement for the applicable project.

### Retirement Plan Advisory Services

Establishing a sound fiduciary governance process is vital to good decision-making and to ensuring that prudent procedural steps are followed in making investment decisions. Creekside Capital will provide Retirement Plan consulting services to Plans and Plan Fiduciaries as described below. The particular services provided will be detailed in the consulting agreement. The appropriate Plan Fiduciary(ies) designated in the Plan documents (e.g., the Plan sponsor or named fiduciary) will (i) make the decision to retain our firm; (ii) agree to the scope of the services that we will provide; and (iii) make the ultimate decision as to accepting any of the recommendations that we may provide. The Plan Fiduciaries are free to seek independent advice about the appropriateness of any recommended services for the Plan. Retirement Plan consulting services may be offered individually or as part of a comprehensive suite of services.

The Employee Retirement Income Security Act of 1974 ("ERISA") sets forth rules under which Plan Fiduciaries may retain investment advisers for various types of services with respect to Plan assets. For certain services, Creekside Capital will be considered a fiduciary under ERISA. For example, Creekside Capital will act as a fiduciary when providing non-discretionary investment advice to the Plan Fiduciaries by recommending a suite of investments as choices among which Plan Participants may select. Also, to the extent that the Plan Fiduciaries retain Creekside Capital to act as an investment manager within the meaning of ERISA § 3(38), Creekside Capital will provide discretionary investment management services to the Plan.

With respect to any account for which Creekside Capital meets the definition of a fiduciary under Department of Labor rules, Creekside Capital acknowledges that both Creekside Capital and its Related Persons are acting as fiduciaries. Additional disclosure may be found elsewhere in this Brochure or in the written agreement between Creekside Capital and Client.

### *Fiduciary Consulting Services*

#### *Investment Selection Services*

Creekside Capital will provide Plan Fiduciaries with recommendations of investment options consistent with ERISA section 404(c). Plan Fiduciaries retain responsibility for the final determination of investment options and for compliance with ERISA section 404(c).

#### *Non-Discretionary Investment Advice*

Creekside Capital provides Plan Fiduciaries and Plan Participants general, non-discretionary investment advice regarding asset classes and investments.

#### *Investment Monitoring*

Creekside Capital will assist in monitoring the plan's investment options by preparing periodic investment reports that document investment performance, consistency of fund management and conformation to the guidelines set forth in the investment policy statement and Creekside Capital will make recommendations to maintain or remove and replace investment options. The details of this aspect of service will be enumerated in the engagement agreement between the parties.

### Types of Investments

We typically offer advice on mutual funds, common stocks, individual bonds, separate account managers, CDs and ETFs for client accounts. However, we may advise you on various types of investments based on your stated goals and objectives. We may also provide advice on any type of investment held in your portfolio at the inception of our advisory relationship. Refer to the *Methods of Analysis, Investment Strategies and Risk of Loss* below for additional disclosures on this topic.

Since our investment strategies and advice are based on each client's specific financial situation, the investment advice we provide to you may be different or conflicting with the advice we give to other clients regarding the same security or investment.

#### IRA Rollover Recommendations

Effective December 20, 2021 (or such later date as the US Department of Labor ("DOL") Field Assistance Bulletin 2018-02 ceases to be in effect), for purposes of complying with the DOL's Prohibited Transaction Exemption 2020-02 ("PTE 2020-02") where applicable, we are providing the following acknowledgment to you. When we provide investment advice to you regarding your retirement plan account or individual retirement account, we are fiduciaries within the meaning of Title I of the Employee Retirement Income Security Act and/or the Internal Revenue Code, as applicable, which are laws governing retirement accounts. The way we make money creates some conflicts with your interests, so we operate under a special rule that requires us to act in your best interest and not put our interest ahead of yours. Under this special rule's provisions, we must:

- Meet a professional standard of care when making investment recommendations (give prudent advice);
- Never put our financial interests ahead of yours when making recommendations (give loyal advice);
- Avoid misleading statements about conflicts of interest, fees, and investments;
- Follow policies and procedures designed to ensure that we give advice that is in your best interest;
- Charge no more than is reasonable for our services; and
- Give you basic information about conflicts of interest.

We benefit financially from the rollover of your assets from a retirement account to an account that we manage or provide investment advice, because the assets increase our assets under management and, in turn, our advisory fees. As a fiduciary, we only recommend a rollover when we believe it is in your best interest.

## **Item 5 Fees and Compensation**

#### General Fee Information

Fees paid to Creekside Capital are exclusive of all custodial and transaction costs paid to the client's custodian, brokers or other third party consultants. Please see **Item 12 - Brokerage Practices** for additional information. Fees paid to Creekside Capital are also separate and distinct from the fees and

expenses charged by mutual funds, ETFs (exchange traded funds) or other investment pools to their shareholders (generally including a management fee and fund expenses, as described in each fund's prospectus or offering materials). The client should review all fees charged by funds, brokers, Creekside Capital and others to fully understand the total amount of fees paid by the client for investment and financial-related services.

#### Portfolio Management Fees

The annual fee schedule, based on a percentage of assets under management, is 1.00%.

The minimum portfolio value is generally set at \$500,000. Minimum annual fees may apply. Creekside Capital may, at its discretion, make exceptions to the foregoing or negotiate special fee arrangements where Creekside Capital deems it appropriate under the circumstances.

Portfolio management fees are generally payable quarterly, in advance. If management begins after the start of a quarter, fees will be prorated accordingly. With client authorization and unless other arrangements are made, fees are normally debited directly from client account(s).

Creekside Capital does not utilize a written agreement with its clients. All arrangements are agreed to verbally, and may be terminated by either party at any time, subject to any notice requirements to which both parties have agreed. In the event of termination, any paid but unearned fees will be promptly refunded to the client based on the number of days that the account was managed, and any fees due to Creekside Capital from the client will be invoiced or deducted from the client's account prior to termination. No assignment of the verbal agreement between Creekside Capital and the client can be made without the client's consent.<sup>1</sup>

#### Separate Account Manager Fees

The fee will vary somewhat depending on the Manager(s). Manager fees may be collected on a schedule that is different from Creekside Capital's standard arrangement of billing quarterly in advance. In any case, the Manager's fees are separate from and in addition to Creekside Capital's fees.

#### Wrap Program Fees

Creekside Capital's fees are charged separately from and in addition to Wrap Program fees.

#### General Consulting Fees

When Creekside Capital provides general consulting services to clients, these services are generally separate from Creekside Capital's portfolio management services. Fees for general consulting are negotiated at the time of the engagement for such services, and are currently normally based on an hourly rate of \$250, payable in arrears.

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

Creekside Capital does not have any performance-based fee arrangements. "Side-by-Side Management" refers to a situation in which the same firm manages accounts that are billed based on a percentage of assets under management and at the same time manages other accounts for which fees are assessed on a performance fee basis. Because Creekside Capital has no performance-based fee accounts, it has no side-by-side management.

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

Creekside Capital serves individuals, pension and profit-sharing plans, corporations, trusts, estates and charitable organizations. With some exceptions, the minimum portfolio value eligible for conventional investment advisory services is \$500,000. Minimum annual fees may apply. Under certain circumstances and in its sole discretion, Creekside Capital may negotiate such minimums.

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

#### Methods of Analysis

In accordance with the Investment Plan, Creekside Capital generally selects mutual funds, common stocks, individual bonds, separate account managers, CDs and ETFs for client accounts.

Creekside Capital utilizes a screening process for selecting mutual funds using Schwab's research site and Morningstar in which Creekside Capital screens for expense ratios, historical performance, manager experience, Morningstar ratings, transactions fees and other research.

In making selections of individual stocks for client portfolios, Creekside Capital generally uses Schwab's research site and Morningstar along with fundamental analysis. This type of analysis involves review of the business and financial information about an issuer. Without limitation, the following factors generally will be considered:

- Financial strength ratios;
- Price-to-earnings ratios;
- Dividend yields; and
- Growth rate-to-price earnings ratios

Fixed income investments may be used as a strategic investment, as an instrument to fulfill liquidity or income needs in a portfolio, or to add a component of capital preservation. Creekside Capital will generally evaluate and select individual bonds or bond funds based on a number of factors including, without limitation, rating, yield and duration.

ETFs are generally evaluated and selected based on a variety of factors, including, without limitation, past performance, fee structure, overall ratings for safety and returns, and other factors.

#### Investment Strategies

Creekside Capital's strategic approach is to invest each portfolio in accordance with the Plan that has been developed specifically for each client. This means that the following strategies may be used in varying combinations over time for a given client, depending upon the client's individual circumstances.

Long Term Purchases - securities purchased with the expectation that the value of those securities will grow over a relatively long period of time, generally greater than one year.

Short Term Purchases - securities purchased with the expectation that they will be sold within a relatively short period of time, generally less than one year, to take advantage of the securities' short term price fluctuations.

Margin Transactions - a securities transaction in which an investor borrows money to purchase a security, in which case the security serves as collateral on the loan.

#### Risk of Loss

While Creekside Capital seeks to diversify clients' investment portfolios across various asset classes consistent with their Investment Plans in an effort to reduce risk of loss, all investment portfolios are subject to risks. Accordingly, there can be no assurance that client investment portfolios will be able to fully meet their investment objectives and goals, or that investments will not lose money.

Below is a description of several of the principal risks that client investment portfolios face.

*Management Risks.* While Creekside Capital manages client investment portfolios based on Creekside Capital's experience, research and proprietary methods, the value of client investment portfolios will change daily based on the performance of the underlying securities in which they are invested. Accordingly, client investment portfolios are subject to the risk that Creekside Capital allocates client assets to individual securities and/or asset classes that are adversely affected by unanticipated market movements, and the risk that Creekside Capital's specific investment choices could underperform their relevant indexes.

*Risks of Investments in Mutual Funds, ETFs and Other Investment Pools.* As described above, Creekside Capital will usually invest client portfolios in mutual funds, ETFs and other investment pools ("pooled investment funds"). Investments in pooled investment funds are generally less risky than

investing in individual securities because of their diversified portfolios; however, these investments are still subject to risks associated with the markets in which they invest. In addition, pooled investment funds' success will be related to the skills of their particular managers and their performance in managing their funds. Pooled investment funds are also subject to risks due to regulatory restrictions applicable to registered investment companies under the Investment Company Act of 1940.

*Equity Market Risks.* Creekside Capital will generally invest portions of client assets directly into equity investments, primarily stocks, or into pooled investment funds that invest in the stock market. As noted above, while pooled investments have diversified portfolios that may make them less risky than investments in individual securities, funds that invest in stocks and other equity securities are nevertheless subject to the risks of the stock market. These risks include, without limitation, the risks that stock values will decline due to daily fluctuations in the markets, and that stock values will decline over longer periods (e.g., bear markets) due to general market declines in the stock prices for all companies, regardless of any individual security's prospects.

*Fixed Income Risks.* Creekside Capital may invest portions of client assets directly into fixed income instruments, such as bonds and notes, or may invest in pooled investment funds that invest in bonds and notes. While investing in fixed income instruments, either directly or through pooled investment funds, is generally less volatile than investing in stock (equity) markets, fixed income investments nevertheless are subject to risks. These risks include, without limitation, interest rate risks (risks that changes in interest rates will devalue the investments), credit risks (risks of default by borrowers), or maturity risk (risks that bonds or notes will change value from the time of issuance to maturity).

*Foreign Securities Risks.* Creekside Capital may invest portions of client assets into pooled investment funds that invest internationally. While foreign investments are important to the diversification of client investment portfolios, they carry risks that may be different from U.S. investments. For example, foreign investments may not be subject to uniform audit, financial reporting or disclosure standards, practices or requirements comparable to those found in the U.S. Foreign investments are also subject to foreign withholding taxes and the risk of adverse changes in investment or exchange control regulations. Finally, foreign investments may involve currency risk, which is the risk that the value of the foreign security will decrease due to changes in the relative value of the U.S. dollar and the security's underlying foreign currency.

#### Recommendation of Particular Types of Securities

While Creekside Capital generally selects mutual funds, common stocks, individual bonds, separate account managers, CDs and ETFs for client accounts; we may advise on other types of investments as appropriate for you since each client has different needs and different tolerance for risk. Each type of security has its own unique set of risks associated with it and it would not be possible to list here all of the specific risks of every type of investment. Even within the same type of investment, risks can vary widely. However, in very general terms, the higher the anticipated return of an investment, the higher the risk of loss associated with the investment.

*Mutual Funds and Exchange Traded Funds:* Mutual funds and exchange traded funds ("ETF") are professionally managed collective investment systems that pool money from many investors and invest in stocks, bonds, short-term money market instruments, other mutual funds, other securities, or any combination thereof. The fund will have a manager that trades the fund's investments in accordance with the fund's investment objective. While mutual funds and ETFs generally provide diversification, risks can be significantly increased if the fund is concentrated in a particular sector of the market, primarily invests in small cap or speculative companies, uses leverage (i.e., borrows money) to a significant degree, or concentrates in a particular type of security (i.e., equities) rather than balancing the fund with different types of securities. ETFs differ from mutual funds since they can be bought and sold throughout the day like stock and their price can fluctuate throughout the day. The returns on

mutual funds and ETFs can be reduced by the costs to manage the funds. Also, while some mutual funds are "no load" and charge no fee to buy into, or sell out of, the fund, other types of mutual funds do charge such fees which can also reduce returns. Mutual funds can also be "closed end" or "open end". So-called "open end" mutual funds continue to allow in new investors indefinitely whereas "closed end" funds have a fixed number of shares to sell which can limit their availability to new investors.

ETFs may have tracking error risks. For example, the ETF investment adviser may not be able to cause the ETF's performance to match that of its Underlying Index or other benchmark, which may negatively affect the ETF's performance. In addition, for leveraged and inverse ETFs that seek to track the performance of their Underlying Indices or benchmarks on a daily basis, mathematical compounding may prevent the ETF from correlating with performance of its benchmark. In addition, an ETF may not have investment exposure to all of the securities included in its Underlying Index, or its weighting of investment exposure to such securities may vary from that of the Underlying Index. Some ETFs may invest in securities or financial instruments that are not included in the Underlying Index, but which are expected to yield similar performance.

*Stocks:* There are numerous ways of measuring the risk of equity securities (also known simply as "equities" or "stock"). In very broad terms, the value of a stock depends on the financial health of the company issuing it. However, stock prices can be affected by many other factors including, but not limited to the class of stock (for example, preferred or common); the health of the market sector of the issuing company; and, the overall health of the economy. In general, larger, better established companies ("large cap") tend to be safer than smaller start-up companies ("small cap") are but the mere size of an issuer is not, by itself, an indicator of the safety of the investment.

*Bonds:* Corporate debt securities (or "bonds") are typically safer investments than equity securities, but their risk can also vary widely based on: the financial health of the issuer; the risk that the issuer might default; when the bond is set to mature; and, whether or not the bond can be "called" prior to maturity. When a bond is called, it may not be possible to replace it with a bond of equal character paying the same rate of return.

*Certificates of Deposit:* Certificates of deposit ("CD") are generally a safe type of investment since they are insured by the Federal Deposit Insurance Company ("FDIC") up to a certain amount. However, because the returns are generally low, there is risk that inflation outpaces the return of the CD. Certain CDs are traded in the market place and not purchased directly from a banking institution. In addition to trading risk, when CDs are purchased at a premium, the premium is not covered by the FDIC.

## **Item 9 Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to a client's evaluation of Creekside Capital or the integrity of Creekside Capital's management. Creekside Capital has no disciplinary events to report.

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

Neither Creekside Capital nor its Management Persons have any other financial industry activities or affiliations to report.

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

### Code of Ethics and Personal Trading

Creekside Capital has adopted a Code of Ethics ("the Code"), the full text of which is available to you upon request. Creekside Capital's Code has several goals. First, the Code is designed to assist Creekside Capital in complying with applicable laws and regulations governing its investment advisory business. Under the Investment Advisers Act of 1940, Creekside Capital owes fiduciary duties to its clients. Pursuant to these fiduciary duties, the Code requires persons associated with Creekside Capital (managers, officers and employees) to act with honesty, good faith and fair dealing in working with clients. In addition, the Code prohibits associated persons from trading or otherwise acting on insider information.

Next, the Code sets forth guidelines for professional standards for Creekside Capital's associated persons. Under the Code's Professional Standards, Creekside Capital expects its associated persons to put the interests of its clients first, ahead of personal interests. In this regard, Creekside Capital associated persons are not to take inappropriate advantage of their positions in relation to Creekside Capital clients.

Third, the Code sets forth policies and procedures to monitor and review the personal trading activities of associated persons. From time to time, Creekside Capital's associated persons may invest in the same securities recommended to clients. Under its Code, Creekside Capital has adopted procedures designed to reduce or eliminate conflicts of interest that this could potentially cause. The Code's personal trading policies include procedures for limitations on personal securities transactions of associated persons, reporting and review of such trading and pre-clearance of certain types of personal trading activities. These policies are designed to discourage and prohibit personal trading that would disadvantage clients. The Code also provides for disciplinary action as appropriate for violations.

### Participation or Interest in Client Transactions

Our firm or persons associated with our firm may buy or sell the same securities that we recommend to you or securities in which you are already invested. A conflict of interest exists in such cases because we have the ability to trade ahead of you and potentially receive more favorable prices than you will receive. To mitigate this conflict of interest, it is our policy that neither our firm nor persons associated with our firm shall have priority over your account in the purchase or sale of securities.

Creekside Capital has established a policy requiring its associated persons to pre-clear transactions in some types of securities with the Chief Compliance Officer. Certain securities, such as CDs, treasury obligations and open-end mutual funds are exempt from this pre-clearance requirement. However, in the event of other identified potential trading conflicts of interest, Creekside Capital's goal is to place client interests first.

Consistent with the foregoing, Creekside Capital maintains policies regarding participation in initial public offerings ("IPOs") and private placements in order to comply with applicable laws and avoid conflicts with client transactions. If a Creekside Capital associated person wishes to participate in an IPO or invest in a private placement, he or she must submit a pre-clearance request and obtain the approval of the Chief Compliance Officer.

Finally, if associated persons trade with client accounts (i.e., in a bundled or aggregated trade), and the trade is not filled in its entirety, the associated person's shares will be removed from the block, and the balance of shares will be allocated among client accounts in accordance with Creekside Capital's written policy.

## Item 12 Brokerage Practices

### Best Execution and Benefits of Brokerage Selection

When given discretion to select the brokerage firm that will execute orders in client accounts, Creekside Capital seeks "best execution" for client trades, which is a combination of a number of factors, including, without limitation, quality of execution, services provided and commission rates. Therefore, Creekside Capital may use or recommend the use of brokers who do not charge the lowest available commission in the recognition of research and securities transaction services, or quality of execution. Research services received with transactions may include proprietary or third party research (or any combination), and may be used in servicing any or all of Creekside Capital's clients. Therefore, research services received may not be used for the account for which the particular transaction was effected.

Creekside Capital recommends that clients establish brokerage accounts with Charles Schwab & Co., Inc. ("Schwab"), a FINRA registered broker-dealer, member SIPC, as the qualified custodian, to maintain custody of clients' assets. Creekside Capital may also effect trades for client accounts at Schwab, or may in some instances, consistent with Creekside Capital's duty of best execution and specific agreement with each client, elect to execute trades elsewhere. Although Creekside Capital may recommend that clients establish accounts at Schwab, it is ultimately the client's decision to custody assets with Schwab. Creekside Capital is independently owned and operated and is not affiliated with Schwab.

Schwab Advisor Services provides Creekside Capital with access to its institutional trading, custody, reporting and related services, which are typically not available to Schwab retail investors. Schwab also makes available various support services. Some of those services help Creekside Capital manage or administer our clients' accounts while others help Creekside Capital manage and grow our business. These services generally are available to independent investment advisors on an unsolicited basis, at no charge to them. These services are not soft dollar arrangements, but are part of the institutional platform offered by Schwab. Schwab's brokerage services include the execution of securities transactions, custody, research, and access to mutual funds and other investments that are otherwise generally available only to institutional investors or would require a significantly higher minimum initial investment.

For Creekside Capital client accounts maintained in its custody, Schwab generally does not charge separately for custody services but is compensated by account holders through commissions and other transaction-related or asset-based fees for securities trades that are executed through Schwab or that settle into Schwab accounts. Schwab Advisor Services also makes available to Creekside Capital other products and services that benefit Creekside Capital but may not directly benefit its clients' accounts. Many of these products and services may be used to service all or some substantial number of Creekside Capital accounts, including accounts not maintained at Schwab.

Schwab's products and services that assist Creekside Capital in managing and administering clients' accounts include software and other technology that (i) provide access to client account data (such as trade confirmations and account statements); (ii) facilitate trade execution and allocate aggregated trade orders for multiple client accounts; (iii) provide pricing and other market data; (iv) facilitate payment of Creekside Capital's fees from its clients' accounts; and (v) assist with back-office functions, recordkeeping and client reporting.

Schwab Advisor Services also offers other services intended to help Creekside Capital manage and further develop its business enterprise. These services may include: (i) technology, compliance, legal and business consulting; (ii) publications and conferences on practice management and business succession; and (iii) access to employee benefits providers, human capital consultants and insurance providers. Schwab may make available, arrange and/or pay third-party vendors for the types of

services rendered to Creekside Capital. Schwab Advisor Services may discount or waive fees it would otherwise charge for some of these services or pay all or a part of the fees of a third-party providing these services to Creekside Capital. Schwab Advisor Services may also provide other benefits such as educational events or occasional business entertainment of Creekside Capital personnel. In evaluating whether to recommend that clients custody their assets at Schwab, Creekside Capital may take into account the availability of some of the foregoing products and services and other arrangements as part of the total mix of factors it considers and not solely on the nature, cost or quality of custody and brokerage services provided by Schwab, which may create a potential conflict of interest.

#### Directed Brokerage

Creekside Capital does not generally allow directed brokerage accounts.

#### Aggregated Trade Policy

Creekside Capital typically directs trading in individual client accounts as and when trades are appropriate based on the client's Investment Plan, without regard to activity in other client accounts. However, from time to time, Creekside Capital may aggregate trades together for multiple client accounts, most often when these accounts are being directed to sell the same securities. If such an aggregated trade is not completely filled, Creekside Capital will allocate shares received (in an aggregated purchase) or sold (in an aggregated sale) across participating accounts on a pro rata or other fair basis; provided, however, that any participating accounts that are owned by Creekside Capital or its officers, directors, or employees will be excluded first.

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

Managed portfolios are reviewed at least annually, but may be reviewed more often if requested by the client, upon receipt of information material to the management of the portfolio, or at any time such review is deemed necessary or advisable by Creekside Capital. These factors generally include but are not limited to, the following: change in general client circumstances (marriage, divorce, retirement); or economic, political or market conditions. Martin McBrearty and Rachel Hacker, Principals of Creekside Capital, review accounts.

For those accounts utilizing the services of outside Managers, Martin McBrearty or Rachel Hacker will conduct a portfolio review at least annually. The performance results for each account will be reviewed each quarter, however.

Account custodians are responsible for providing monthly or quarterly account statements which reflect the positions (and current pricing) in each account as well as transactions in each account, including fees paid from an account. Account custodians also provide prompt confirmation of all trading activity, and year-end tax statements, such as 1099 forms. In addition, Creekside Capital provides at least an annual report for each managed portfolio. This written report normally includes a summary of portfolio holdings and performance results. Additional reports are available at the request of the client.

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

As noted above, Creekside Capital receives an economic benefit from Schwab in the form of support products and services it makes available to Creekside Capital and other independent investment advisors whose clients maintain accounts at Schwab. These products and services, how they benefit our firm, and the related conflicts of interest are described in **Item 12 - Brokerage Practices**. The availability of Schwab's products and services to Creekside Capital is based solely on our participation in the programs and not in the provision of any particular investment advice. Neither Schwab nor any other party is paid to refer clients to Creekside Capital.

## Item 15 Custody

Your independent custodian will directly debit your account(s) for the payment of our advisory fees. This ability to deduct our advisory fees from your accounts causes our firm to exercise limited custody over your funds or securities. We do not have physical custody of any of your funds and/or securities. Your funds and securities will be held with a bank, broker-dealer, or other qualified custodian. You will receive account statements from the qualified custodian(s) holding your funds and securities at least quarterly. The account statements from your custodian(s) will indicate the amount of our advisory fees deducted from your account(s) each billing period. You should carefully review account statements for accuracy.

### **Wire Transfer and/or Standing Letter of Authorization**

Our firm, or persons associated with our firm, may effect wire transfers from client accounts to one or more third parties designated, in writing, by the client without obtaining written client consent for each separate, individual transaction, as long as the client has provided us with written authorization to do so. Such written authorization is known as a Standing Letter of Authorization. An adviser with authority to conduct such third party wire transfers has access to the client's assets, and therefore has custody of the client's assets in any related accounts.

However, we do not have to obtain a surprise annual audit, as we otherwise would be required to by reason of having custody, as long as we meet the following criteria:

1. You provide a written, signed instruction to the qualified custodian that includes the third party's name and address or account number at a custodian;
2. You authorize us in writing to direct transfers to the third party either on a specified schedule or from time to time;
3. Your qualified custodian verifies your authorization (e.g., signature review) and provides a transfer of funds notice to you promptly after each transfer;
4. You can terminate or change the instruction;
5. We have no authority or ability to designate or change the identity of the third party, the address, or any other information about the third party;
6. We maintain records showing that the third party is not a related party to us nor located at the same address as us; and
7. Your qualified custodian sends you, in writing, an initial notice confirming the instruction and an annual notice reconfirming the instruction.

We hereby confirm that we meet the above criteria.

## Item 16 Investment Discretion

As described above under **Item 4 - Advisory Business**, Creekside Capital manages portfolios on a non-discretionary basis. The client generally executes a Limited Power of Attorney ("LPOA"), which allows Creekside Capital to carry out trade recommendations and approved actions in the portfolio. However, in accordance with the agreement between Creekside Capital and the client, Creekside Capital does not implement trading recommendations or other actions in the account unless and until the client has approved the recommendation or action. In addition, clients may limit the terms of the LPOA, subject to Creekside Capital's agreement with the client and the requirements of the client's custodian.

## Item 17 Voting Client Securities

Where Creekside Capital has authority to vote proxies, Creekside Capital will seek to vote proxies in the best interest of the client(s) holding the applicable securities. In voting proxies, Creekside Capital considers factors that Creekside Capital believes relate to the client's investment(s) and factors, if any, that are set forth in written instructions from the client.

In general, Creekside Capital believes that voting proxies in accordance with the following guidelines, with respect to such routine items, is in the best interests of our clients. Accordingly, Creekside Capital generally votes **for**:

- The election of directors (where no corporate governance issues are implicated);
- Proposals that strengthen the shared interests of shareholders and management;
- The selection of independent auditors based on management or director recommendation, unless a conflict of interest is perceived;
- Proposals that Creekside Capital believes may lead to an increase in shareholder value;
- Management recommendations adding or amending indemnification provisions in charter or by-laws; and
- Proposals that maintain or increase the rights of shareholders.

Creekside Capital will generally vote **against** any proposals that Creekside Capital believes will have a negative impact on shareholder value or rights. If Creekside Capital perceives a conflict of interest, Creekside Capital's policy is to notify affected clients so that they may choose the course of action they deem most appropriate.

A copy of our complete policy, as well as records of proxies voted; are available to clients upon request. As required under the Advisers Act, such records are maintained for a period of five (5) years.

## Item 18 Financial Information

Creekside Capital does not require nor solicit prepayment of more than \$1,200 in fees per client, six months or more in advance, and therefore has no disclosure required for this item.