

**ITEM 1 – COVER PAGE**

**Empower Capital Management, LLC**  
**Services Provided to Non-Qualified Deferred Compensation Plans**

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This brochure provides information about the qualifications and business practices of Empower Capital Management, LLC (“ECM” or the “Adviser”). If you have any questions about the contents of this brochure, please contact the number above or [ECMsupport@empower.com](mailto:ECMsupport@empower.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (“SEC”) or by any state securities authority.

The Adviser is a registered investment adviser under the Investment Advisers Act of 1940 (“Advisers Act”). Registration of ECM does not imply any level of skill or training.

## ITEM 2 – MATERIAL CHANGES

This section of the Brochure highlights and discusses any changes that were made since the Adviser's last annual update. On January 1, 2023, Global Portfolio Strategies, Inc. ("GPSI"), an investment adviser providing services to nonqualified retirement plan sponsors, merged into its affiliate ECM. As of the merger date, these services to nonqualified retirement plan sponsors are now provided by ECM. These services are more fully detailed in this brochure.

Additional information about the Adviser is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). The SEC's web site also provides information about any person affiliated with the Adviser who is registered, or are required to be registered, as an investment adviser representative with the Adviser.

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## **ITEM 4 – ADVISORY BUSINESS**

ECM is a Colorado limited liability company (“LLC”) formed in 1994 as a corporation under the name Maxim Capital Management, LLC d/b/a GW Capital Management, Inc. In 1997, it converted to an LLC under the same name. On September 24, 2012, Maxim Capital Management, LLC d/b/a GW Capital Management, LLC rebranded as Great-West Capital Management, LLC (“GWCM”). On August 1, 2022, GWCM was rebranded as Empower Capital Management, LLC. The Adviser is a wholly owned subsidiary of Empower Annuity Insurance Company of America (“EAICA”). EAICA, and its wholly owned subsidiary, Empower Life & Annuity Insurance Company of New York (“ELAINY”), offers products and services through its brand Empower (“Empower”). The Adviser provides investment advisory and related services for products offered by Empower. EAICA’s corporate headquarters are located in Greenwood Village, CO; ELAINY’s home office is located in New York, NY.

EAICA is a direct wholly owned subsidiary of Empower Holdings, Inc. (“EHI”), a Delaware holding company. EHI is a direct wholly owned subsidiary of Great-West Lifeco U.S. LLC. (“Lifeco U.S.”) and an indirect wholly owned subsidiary of Great-West Lifeco Inc. (“Lifeco”), a Canadian holding company. Lifeco is a subsidiary of Power Financial Corporation (“Power Financial”), a Canadian holding company with substantial interests in the financial services industry. Power Corporation of Canada (“Power Corporation”), a Canadian holding and management company, has voting control of Power Financial. The Desmarais Family Residuary Trust has voting control of Power Corporation, through a group of private holding companies that it controls.

This brochure describes certain services offered and/or provided by ECM to Non-Qualified Deferred Compensation (“NQDC”) plan sponsors and participants, which include:

### **Services Offered to Clients and Their Participants**

- Advisor Managed Portfolio Services
- Investment Consulting Services

### **Services Offered to Our Affiliates**

- Administrative Services Related to the Use of Third-Party Models

### **Services No Longer Offered but Utilized by Certain Clients and Their Participants:**

- Guarantee+
- Deferred Compensation Investment Advice

These services are offered and/or provided to NQDC plan sponsors, relating to company-sponsored programs that allow participants to delay receiving income on a pre-tax basis.

Deferrals of the participants are deemed to be invested in the funds listed in their NQDC plan. Participants do not actually own any shares of the investment options they select. We provide services to certain of these plan sponsor clients as further described in this brochure.

### **Services Offered to Clients and Their Participants:**

#### **Advisor Managed Portfolio Services (“AMPS”)**

Advisor Managed Portfolios are asset allocation portfolios designed for use by plan participants in non-qualified deferred compensation plans administered by Mullin TBG Insurance Agency Services, LLC (“MTBG”) or Empower Annuity Insurance Company (“EAIC”), formerly named Prudential Retirement Insurance and Annuity Company. They are offered as a group of five portfolios based on risk tolerance – conservative, moderate, moderate growth, growth and aggressive. These portfolios

are stand-alone deemed investment options that utilize mutual funds and/or variable insurance subaccounts.

AMPS provide participants with asset allocation and diversification through a single deemed investment strategy; in addition, the funds may also include investments not currently offered in their plan. Participants have access to fact sheets which provide descriptions of the portfolios and the target allocation of underlying funds. Participants may select portfolios as a deemed investment option as with any other plan deemed investment option and are offered online risk tolerance questionnaires to assist them in selecting a portfolio.

Generally, ECM has full investment discretion and provides oversight to these portfolios, which enables ECM to make changes to the portfolios as it deems necessary. Typically, ECM does not need the approval of the plan sponsor to make any allocation or underlying fund manager changes in the portfolios. The target asset allocation for the portfolios is set annually and the portfolios are reviewed and rebalanced periodically as needed.

If an outside advisor selects the investments to be utilized in a plan or if a client instructs ECM to utilize only those investments offered to plan participants, ECM will have discretion over the allocation percentages for those selected investments only; ECM will not allocate any amounts to investments that are not offered in the plan.

Generally, we recommend investments registered under the Investment Company Act of 1940 (the “1940 Act”), which is limited to publicly traded mutual funds and closed-end funds. ECM does not provide recommendations for alternative investments such as hedge funds, private equity or other non-registered investments not covered under the 1940 Act. In some circumstances, we may allocate to a General Account of an insurance company.

#### Investment Consulting Services

We offer various investment consulting services to plan sponsors of NQDC plans, including the following:

- Advising plan sponsors in the development of a menu of deemed investment options for their participants.
- Providing plan sponsors non-discretionary investment advice, due diligence, monitoring and periodic performance reporting of their deemed investments and/or informally funded assets.
- Providing asset allocation and/or fund mapping advice to plan sponsors in the management of their informally funded assets.
- Developing investment policy statements for plan sponsors.

#### **Services Offered to Our Affiliates:**

##### Administrative Services Related to the Use of Third-Party Models

ECM provides administrative services to its affiliate, MTBG regarding MTBG’s clients’ use of model portfolios managed by third-party investment advisers (those unaffiliated with MTBG or ECM). As directed by the relevant third-party adviser, ECM will administer the asset allocation and fund fulfillment model for deferred compensation plans for which MTBG acts as recordkeeper. In offering these services, we are not providing investment advice.

## **Services No Longer Sold but Utilized by Certain Clients and Their Participants:**

### Guarantee+ Services

Guarantee+ is a service offered to plan sponsors who desire to offer lifetime income benefits as part of their NQDC plan through a variable annuity provided by an affiliated insurance company. The services described below are offered for plans administered by our affiliates MTBG and EAIC, and generally involve non-investment advisory activities. Services provided to participants include:

- Availability for current contract holders to speak with an investment adviser representative about the investments available within the contract.

The Guarantee+ option is provided in connection with plans utilizing Pruco Life Insurance Company or Pruco Life Insurance Company of New Jersey annuity contracts. ECM does not review or compare annuities or guaranteed minimum withdrawal benefits of non-affiliated insurers nor do we recommend a particular annuity. Additionally, we only accommodate one annuity per person.

### Deferred Compensation Investment Advice Services

ECM provides investment advice to participants of MTBG's and EAIC's NQDC plan sponsor clients regarding their participation in the NQDC plan only. Components of this service include the following:

- Risk Tolerance Assessment: A participant is asked a series of questions by an investment adviser representative to help the participant determine his/her risk profile as it relates to the participant's plan balance.
- Investment Recommendations: ECM provides the participant an investment recommendation regarding his/her deemed investments in the plan. The investment recommendation does not include and is not designed to include other investments in the participant's investment portfolio including, but not limited to, other retirement plans or programs, such as a company sponsored 401(k) plans, brokerage accounts, and individual retirement accounts.
- Separation of Service: Upon leaving employment, a participant may discuss his/her specific financial situation regarding the distribution and investment of his/her plan balance with an investment adviser representative.

While giving investment advice to the participants, an investment adviser representative may recommend that participants invest in Advisor Managed Portfolios. The participants are made aware that if they choose to invest in Advisor Managed Portfolios, the standard fee assessed by ECM is 25 bps (0.25%). The participant can only invest in Advisor Managed Portfolios if his/her employer offers the service to its employees. Participants may also choose not to invest in Advisor Managed Portfolios, but rather model their own portfolio utilizing the investment options in their existing plan.

### **Our Assets Under Management:**

As of December 31, 2022, assets under management for this service, which includes deemed values in Non-Qualified Deferred Compensation plans, were as follows:

Discretionary: \$ 805,815,414.

Nondiscretionary: \$ 468,917,771.

## **ITEM 5 – FEES AND COMPENSATION**

### **Services Offered to Clients and Their Participants:**

#### Advisor Managed Portfolio Services Fees

The standard fee for the Advisor Managed Portfolio is 25 bps (0.25%) but is negotiable on a plan-by-plan basis.

ECM does not debit AMP client accounts for fees. The fee is calculated based on plan liabilities values, and the plan or plan sponsor is separately billed for services. The advisory fee is calculated based on the average daily balance of liabilities in the Advisor Managed Portfolios. The fee is then paid either by the plan sponsor or the plan sponsor's trustee. The fee is in addition to fees charged by the investments in each portfolio, which are included in a mutual fund's daily price. The fees are billed quarterly and are paid in arrears.

#### Investment Consulting Services Fees

Fees paid by corporate sponsors of NQDC plans are negotiable on a plan-by-plan basis. The fees are billed quarterly and are paid in arrears.

#### **Services Offered to Our Affiliates:**

##### Administrative Services Related to the Use of Third-Party Models

The fee for this administrative service is \$5,000 annually per plan and a one-time setup fee of \$1,000. Fees are negotiable on a plan-by-plan basis.

#### **Services No Longer Sold but Utilized by Certain Clients and Their Participants:**

##### Guarantee+ Fees

ECM does not charge an explicit fee for this service but there are fees for the investments within the annuity and for the guaranteed minimum withdrawal benefit ("GMWB") option, which are received by affiliated or unaffiliated insurance companies. Typical annuity fees include mortality and expense charges, administrative charges, and charges for specific benefits (such as a GMWB). ECM's affiliated entities may receive commissions for the sale of annuity products, and employees of unaffiliated third parties may also receive commissions from the sale of annuity products.

##### Deferred Compensation Investment Advice Fees

ECM does not charge a fee for this service. However, while giving investment advice to participants, our investment advisory representatives may recommend that participants invest in Advisor Managed Portfolios. The participants are made aware that Advisor Managed Portfolios' standard fee is 25 bps (0.25%), and ECM will receive this fee.

#### **ITEM 6 – PERFORMANCE BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

The Adviser does not charge any performance-based fees (fees based on investment performance or a share of capital gains on, or capital appreciation of, the assets of a client).

#### **ITEM 7 – TYPES OF CLIENTS**

##### **Services Offered to Clients and Their Participants:**

##### Advisor Managed Portfolios

Advisor Managed Portfolios are asset allocation strategies designed for NQDC plans.

### Investment Consulting Services

Investment Consulting Services are provided to NQDC plan sponsors. Services are focused on advising the plan sponsor regarding plan investment menu construction and maintenance. In addition, ECM may advise a plan sponsor regarding asset management and asset allocation.

#### **Services Offered to ECM Affiliates:**

### Administrative Services Related to the Use of Third- Party Models

Administrative Services are offered exclusively to our affiliate MTBG and include the asset allocation and fund fulfillment model for Deferred Compensation plans for which MTBG acts as recordkeeper.

#### **Services No Longer Sold but Utilized by Certain Clients and Their Participants:**

### Guarantee +

Guarantee+ services are provided to participants in corporate Non-Qualified Deferred Compensation plans.

### Deferred Compensation Investment Advice

Deferred Compensation Investment Advice is a service available to participants in one NQDC plan administered by affiliates, MTBG and EAIC. It provides plan Participants access to an investment adviser representative to discuss their accounts.

## **ITEM 8 – METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

### **Methods of Analysis and Investment Strategies:**

For any service that includes asset allocation and fund selection, ECM structures portfolios using the principles of Modern Portfolio Theory (“MPT”). MPT is an investment methodology that holds that investors may benefit from having a portfolio of holdings invested in a variety of asset classes. To the extent that these asset classes are not correlated, the risk of loss in the portfolio will be mitigated. ECM constructs client investment portfolios by developing asset allocation models using historical performance data and academically tested assumptions about future performance, aiming to optimize the risk- adjusted expected rate of return of a given portfolio.

Investment Consulting Services are designed to provide a comprehensive review of a Deferred Compensation plan’s liability and investment options over time; current and historical balances, gains/losses, and asset allocation, as well as specific plan-level participant demographics. Overall plan rate of return and volatility are also calculated and measured against various indices and benchmarks. Individual fund performance and other statistics are reviewed against, as applicable, those of peer groups and standard asset class benchmarks. Plan investment review services can play an integral role in assessing the overall quality of a plan and its investment options, especially as related to how other clients are measured in similar areas.

In the Advisor Managed Portfolios, ECM uses traditional mean-variance optimization with portfolio re-sampling to maximize portfolio efficiency and create more intuitive portfolios. ECM’s investment approach is to create asset allocation portfolios that offer diversification, balance risk and return, and incorporate various time horizons associated with NQDC plan distributions. In addition to a standard fund selection process that includes a broad quantitative screening and qualitative review of available managers, each portfolio utilizes a core passive (index fund)/active satellite (active manager) approach. We believe this approach allows for better control of market risk (beta) while focusing on attractive active management (alpha) opportunities within each portfolio or asset class.



**General Risk of Loss:**

Although ECM attempts to control risk by creating diversified portfolios, there may be situations where the portfolios lose value. Neither ECM nor its affiliates guarantee the returns or the success of any given investment portfolio or investment strategy. A negative macro-economic shock may cause a portfolio to decline in value, whether the portfolio is conservative or aggressive.

ECM's portfolios generally are comprised of mutual funds or variable insurance subaccounts. We do not guarantee that any of the investments within the portfolio will meet their stated investment objectives. Clients should keep in mind that the application of asset allocation and diversification concepts does not assure a profit or protect against loss in a declining market. If one or more of the investments within the portfolios underperform, it may have an overall negative effect on the portfolio as a whole.

ECM subscribes to external data sources, e.g., Morningstar, Inc., to assist in reviewing investment models. ECM believes that it has developed appropriate internal procedures to validate the data provided from external sources; however, there is no guarantee of the accuracy of the data received from these sources.

Clients should keep in mind that application of asset allocation and diversification concepts does not assure a profit or protect against loss in a declining market. It is possible to lose money by investing in securities.

**Risks Specific to Guarantee+:**

Customers in Guarantee+ each hold individual variable annuities, which, like all variable investments, may lose value. While this risk is offset by the GMWB feature, the GMWB is subject to the claims paying ability of the issuing insurance company. Additionally, this guarantee covers the amount available for withdrawal, and not the market value of the investment. We encourage clients that offer this option in their plans, and participants in those plans, to refer to the prospectus of the relevant annuity for a more detailed description of risks related to the specific insurance company and annuity products.

**Risks Related to Regulation:**

Laws and regulations affecting our business change from time to time, and we are currently operating in an environment of significant global regulatory reform. We cannot predict the effects, if any, of future legal and regulatory changes on our business or the services we provide.

**Certain Risk Related to Cybersecurity and Technology:**

Investment advisors, including ECM, must rely in part on digital and network technologies to conduct their businesses and to maintain substantial computerized data relating to client account activities. These technologies include those owned or managed by ECM or its affiliates, as well as, those owned or managed by others, such as custodians, financial intermediaries, transfer agents, and other parties to which we or they outsource the provision of services or business operations.

Like all businesses that use computerized data, we and our affiliates and the systems we use might in some circumstances be subject to a variety of possible cybersecurity incidents or similar events that could potentially result in the inadvertent disclosure of data to unintended parties, or the intentional misappropriation or destruction of data by malicious hackers mounting an attack on computer systems. We and our affiliates have implemented and maintain an information technology security policy and program that includes certain technical and physical safeguards intended to protect the integrity, availability, and confidentiality of the data we have and the systems that store it and take

other reasonable precautions to limit the potential for cybersecurity incidents, and to protect data from inadvertent disclosure or wrongful misappropriation or destruction.

Nevertheless, despite reasonable precautions, cybersecurity incidents could occur, and might in some circumstances result in unauthorized access to sensitive information about us or our clients. In addition, such incidents might cause damage to client accounts, data, systems or affect client services.

Furthermore, these systems may fail to operate properly or become disabled because of events or circumstances wholly or partly beyond our or others' control. Technology failures, whether deliberate or not, including those arising from use of third-party service providers or client usage of systems to access accounts, could have a material adverse effect on our business or our clients and could result in, among other things, financial loss, reputational damage, regulatory penalties, or the inability to transact business.

#### **Public Health Risk:**

Occurrences of epidemics and pandemics, depending on their scale, could cause different degrees of damage to the national and local economies. Global economic conditions may be disrupted by widespread outbreaks of infectious or contagious diseases, and such disruption could adversely affect the returns of your portfolio.

The impact of COVID-19, and other related or unrelated public health issues that may arise in the future, could adversely affect the economies of many nations, individual companies and investment products, and the market in general in ways that cannot necessarily be foreseen at the present time. Any public health emergency or the threat thereof, could have a significant adverse impact on a portfolio and its investments and could adversely affect a portfolio's ability to fulfill its investment objectives.

#### **General Risks of Investing**

Investing in securities involves risk of loss that clients should be prepared to bear. Neither ECM nor its affiliates guarantee that the recommendations will result in achieving a client's investment goal. Neither ECM nor its affiliates can guarantee that negative returns can or will be avoided in any of the recommendations. An investment's future performance may differ substantially from its historical performance and may incur a loss. Past performance is no guarantee of future results. Additionally, the plan provider may make changes from time to time with respect to the investment options available in the plan.

You should carefully consider the benefits of a well-balanced and diversified investment portfolio. Market or other economic conditions that cause one category of assets to perform very well often cause another asset category to underperform. Diversification does not guarantee investment returns and does not eliminate the risk of loss.

Below are some common factors that can produce a loss in a plan account and/or in a specific investment product or asset category:

- **Market Risk:** Stock and bond markets are volatile and can decline significantly in response to adverse issuer, political, regulatory, market or economic developments in the U.S. and in other countries. Market risk may affect a single company, a sector of the economy, a country or geopolitical region, or the market as a whole. Market risk may impact stock and or bond markets in unanticipated and different ways.
- **Business Risk:** These risks are associated with a particular industry or a particular company within an industry.

- **Capitalization Risk:** Small-cap and mid-cap companies may be hindered due to limited resources or less diverse products or services, and their stocks have historically been more volatile than the stocks of larger, more established companies.
- **Category or Style Risk:** During various periods of time, one category or style may underperform or outperform other categories and styles.
- **Credit Risk:** The risk that the issuer of a security may be unable to make interest payments and/or repay principal when due. A downgrade to an issuer's credit rating or a perceived change in an issuer's financial strength may affect a security's value and impact the performance of the issue along with any mutual fund or exchange-traded fund which holds it.
- **Interest Rate Risk:** The market value of a debt security is affected significantly by changes in interest rates. When interest rates rise the security's market value declines. When interest rates decline, market values rise. The longer bond maturity results in the greater risk and the higher yield. Conversely, the shorter bond maturity results in the lower risk and the lower yield.
- **Inflation Risk:** When any type of inflation is present, purchasing power may erode at the rate of inflation.
- **Reinvestment Risk:** The risk that future proceeds from investments may have to be reinvested at a potentially lower rate of return (i.e., interest rate). This relates primarily to fixed income securities.
- **Exchange-traded funds:** Exchange-traded funds present market and liquidity risks because they are listed on a public securities exchange and are purchased and sold via the exchange at the listed price. The price will vary based on current market conditions and may deviate from the net asset value of the exchange-traded fund's underlying portfolio. There may also be an inactive market for certain funds, and/or losses from trading in secondary markets.
- **Settlement risk** is the possibility that a trading counterparty fails to pay cash or deliver securities upon the scheduled settlement of a trade. All securities trading involves a degree of settlement risk, and such risk can be exacerbated by adverse market conditions. The inability to dispose of a security due to settlement problems could result in losses, and a delay in the settlement of a purchase could result in periods when cash is uninvested, and no return is earned thereon.
- **Target Date Funds:** Generally, the asset allocation of each target date fund will change on an annual basis with the asset allocation becoming more conservative as the fund nears the target retirement date. The target date is the approximate date when investors plan to start withdrawing their money. The principal value of the fund(s) in a plan's lineup is not guaranteed at any time, including at the time of target date and/or withdrawal.

An investment in a money market fund is not insured or guaranteed by the FDIC or any other government agency. Although some money market funds such as U.S. Government money market funds strive to preserve the value of the investment at \$1.00 per share, it is possible to lose money by investing in a money market fund. Additionally, other money market funds may operate under new rules and regulations permitting them to have a "floating" value per share. A floating value may be more or less than \$1.00 per share (depending on market conditions) and impose liquidity/redemption fees for large or frequent withdrawals.

## **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 your evaluation of the Adviser or the integrity of Adviser's management. The Adviser has no legal or disciplinary event to report relative to this Item.

## ITEM 10– OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS

### Other Financial Industry Activities

As a wholly owned subsidiary of EAICA and part of a diversified global financial services organization, ECM is affiliated with many types of U.S. and non-U.S. financial service providers, including insurance companies, broker-dealers, and other investment advisers. Some of our employees are officers of and/or provide services to some of these affiliates. Those affiliates' products and services are very often offered together with ECM's, including as part of an integrated product offering. These situations are described more fully below:

- ECM clients are holders of variable insurance contracts issued by our affiliates (EAICA, EAIC and ELAINY) and non-affiliates, Prudential Insurance Company of America ("PICA"). These contracts are funded by insurance company separate accounts of EAIC and PICA. Contracts may also be funded by an investment in the insurance company general account of EAIC or PICA.
- With respect to the assets held in these insurance company separate accounts and/or general accounts, EAIC and PICA retain various affiliated and unaffiliated registered investment advisers that manage these assets on a day-to-day basis. EAIC or PICA pays compensation to these investment advisers in exchange for the investment management services. In addition, in connection with investments in an insurance company general account product, EAIC or PICA earns additional fee-based or spread compensation, depending on the product structure.
- EAIC and PICA typically provide various administrative and recordkeeping functions for NQDC clients and earn compensation for these services as agreed to with each client.
- Certain mutual funds included in the fund search process offered to retirement plans may include affiliated funds or funds that pay revenue to our affiliated entities. The fees paid to an affiliate for management of the funds are included in the fund share price.
- Recordkeeping and Administrative Services Company

*Empower Retirement, LLC ("Empower Retirement")* is a comprehensive administrative and recordkeeping services provider for financial institutions and employers, which include educational, advisory, enrollment, and communication services for employer- sponsored defined contribution plans and associated defined benefit plans under Internal Revenue Code Section 401(a), 401(k), 403(b), 408, and 457.

### Other Affiliations with the Adviser

The Adviser has arrangements with related persons that are material to its advisory business or to the Adviser's Clients, and such related persons of the Adviser include:

#### Insurance Companies

Empower Annuity Insurance Company of America is an insurance company domiciled in the State of Colorado ("EAICA"). The Adviser is a wholly owned direct subsidiary of EAICA. EAICA, pursuant to various agreements, may provide investment products, recordkeeping, and other administrative services through its affiliates. Some of the executive officers of the Adviser may also serve as officers of EAICA. Certain funds of Empower Funds, Inc. ("EFI") may invest in a fixed interest contract issued by EAICA (the "EAICA Contract") pursuant to exemptive relief issued by the SEC. The EAICA Contract has a stable principal value and accrues a fixed rate of interest, which is reflected in the daily valuation of the applicable Funds. EAICA calculates the interest rate in the same way it calculates guaranteed interest rates for similar contracts (on a calendar quarter or other periodic basis). If EAICA were to become insolvent, the EAICA Contract would be settled commensurate with other policy holder obligations.

*Empower Life & Annuity Insurance Company of New York ("ELAINY")* is an insurance company domiciled in the State of New York. ECM is an affiliate of ELAINY through common ownership where EAICA is the sole owner of both ECM and ELAINY. ELAINY, pursuant to various agreements, may provide investment products and administrative services through its affiliate, Empower, to retirement plans for which ECM may also provide its services.

*Empower Annuity Insurance Company ("EAIC") formerly named Prudential Retirement Insurance and Annuity Company (PRIAC)*, is an insurance company domiciled in the State of Connecticut. EAIC is a wholly owned subsidiary of EAICA. EAIC, pursuant to various agreements, may provide investment products, recordkeeping, and other administrative services through its affiliates.

*Mullin TBG Insurance Agency Services LLC ("MTBG")* is an insurance agency organized in the State of Delaware. MTBG is a wholly owned subsidiary of EAICA.

#### Broker-Dealer

*Empower Financial Services, Inc. ("EFSI")*, an affiliate of ECM, is a registered broker/dealer and wholly owned subsidiary of EAICA. EFSI may receive compensation in the form of 12b-1 fees or other compensation from the mutual fund companies or from the other investments that may be available as plan investment options.

#### Trust Company

*Empower Trust Company, LLC ("ETC")* is a trust company and affiliate of ECM. ETC is a wholly owned subsidiary of EAICA. ETC is chartered under the laws of the State of Colorado. ETC may provide discretionary or directed trustee and/or custodial services for ECM's clients. ETC also serves as the trustee for certain collective investment trusts which may be available as plan investment options and is the custodian of all Empower IRA accounts.

#### Investment Company

*Empower Funds, Inc. ("EFI")* is an investment company affiliated with and advised by ECM. It is registered under the 1940 Act. EFI may provide investment products to retirement plans for which ECM may also provide its services. EFI is advised by Empower Capital Management, LLC as discussed below.

#### Investment Advisers

*Empower Advisory Group LLC ("EAG")*, an affiliate of ECM, is wholly owned by EAICA. EAG is an investment adviser registered under the Advisers Act. It provides investment management services and financial planning services to various clients.

*Putnam Investment Management, LLC* – a registered investment adviser ("PIM"). The Adviser is an affiliate of PIM. Shares of Putnam mutual funds managed by PIM may be available for purchase by contract owners who invest in the Funds or by shareholders of the Funds which invest in Underlying Funds managed by PIM. PIM serves as the sub-adviser to the Empower High Yield Bond Fund, the Empower Large Cap Value Fund, and the Empower Core Strategies U.S. Equity Fund; ECM is the Adviser to the Funds.

*Irish Life Investment Managers, Limited* – a Dublin, Ireland based, SEC registered investment adviser ("ILIM"). ILIM is part of the Great-West Lifeco, Inc. ("GWL") group of companies. GWL has operations in Canada, the United States, Europe, and Asia through ownership of various companies including Great-West and PIM. The Adviser is a wholly-owned subsidiary of EAICA. EAICA is an indirect wholly owned

subsidiary of GWL, which controls ILIM. ILIM also serves as the sub-adviser to the Empower S&P 500® Index Fund; Empower S&P Mid Cap 400® Index Fund; Empower S&P Small Cap 600® Index Fund; Empower International Index Fund; and Empower Real Estate Index Fund; Empower Core Strategies U.S. Equity Fund; and Empower Core Strategies International Equity Fund.

**Conflicts of interest:**

Like other investment advisers, ECM is subject to various conflicts of interest in the ordinary course of business. ECM strives to identify potential risks, including conflicts of interest, which are inherent in our business, and conduct formalized annual conflict of interest surveys. When actual or potential conflicts of interest are identified, we seek to address such conflicts through one or more of the following methods:

- Elimination of the conflict;
- Disclosure of the conflict; or
- Management of the conflict through the adoption of appropriate policies and procedures.

ECM has in place policies on business ethics and personal securities trading by investment personnel, and has adopted a Code of Ethics, supervisory procedures, and conflicts of interest policies, among other policies and procedures, which are designed to ensure that clients are not harmed by potential or actual conflicts of interests. However, there is no guarantee that such policies and procedures will detect and ensure avoidance or disclosure of each potential conflict that may arise.

The integrated structure described above can result in an actual or perceived conflict of interest on our part, so that ECM's asset allocation advice might be regarded as inappropriately generating fees to us or our affiliates. We seek to address these conflict situations in several ways. ECM and its management persons are not registered as a futures commission merchant, commodity pool operator, a commodity trading advisor, or an associated person of the foregoing entities.

ECM has arrangements that are material to its advisory business or its clients with the related entities shown below. These related entities may receive certain fees that are unrelated to ECM's fees for its services.

**Other Business Activities**

Certain senior managers and officers of ECM may also serve as executive officers of ECM's parent company, EAICA, and other affiliates of ECM.

**Branding**

The affiliated companies of EAICA, EAG, ECM, EFSI, EAIC, ELAINY, EFI, Empower Holdings, LLC, Empower Retirement, LLC, and ETC operate under the multiple brands of Empower and Empower Institutional depending upon the products, services and retirement markets involved. These brands do not materially affect the internal structure of ECM or ECM's corporate ownership.

First, where our asset allocation service clients select general account and separate account investments of EAICA or EAIC or other funding options offered by PICA or EAIC, clients are informed in advance of the investment fees or compensation retained by our affiliates.

Also, there may be certain situations where our affiliates receive a fee regarding an investment option identified by ECM (such as an investment management fee for a mutual fund). In that event, ECM will pass through to clients any fees paid to ECM's affiliates by the client.

## **ITEM 11– CODE OF ETHICS**

### **Brief description of the Adviser's Code of Ethics**

ECM has adopted a written Code of Ethics (the "Code") in compliance with Rule 204A-1 of the Advisers Act. The Code sets forth a standard of business conduct expected of advisory personnel and requires ECM's advisory personnel, (referred to as "Supervised Persons") to report their personal securities holdings and transactions in accordance with the Advisers Act. A copy of the Code will be provided to the current or prospective clients, upon request.

ECM's Code includes provisions related to:

- Fiduciary responsibility to clients;
- Compliance with federal securities laws;
- Protection and safeguarding of confidential information;
- Giving and receiving gifts, gratuities, and entertainment;
- Political contributions;
- Reporting and monitoring personal securities transactions;
- Avoiding and disclosing conflicts of interest; and
- Reporting violations of the Code.

### Personal Trading

The Code requires pre-clearance of certain securities transactions. Officers, managers, and certain employees of ECM (collectively, "Access Persons") may trade for their own personal accounts in securities which are recommended to and/or purchased for ECM advisory clients. However, because the Code would permit Access Persons to invest in the same securities as clients in some circumstances, there is a possibility that an Access Person could benefit from market activity in a security held by a client. As a result, trading is continually monitored in accordance with the Code and federal securities laws. The Code is intended to ensure that the personal securities transactions and the outside business activities of ECM's Access Persons do not interfere with making decisions in the best interest of advisory clients.

ECM has adopted a policy and practice not to engage in any principal transactions. ECM holds no investments for its own accounts that could be bought from or sold to an advisory client. In the event of any change in ECM's policy, any such change must be approved by management. Any principal transactions would be permitted only after meeting the review and approval requirements described under the anti-fraud section of the Advisers Act.

### Participation or Interest in Client Transactions

Certain affiliated accounts may trade in the same securities with client accounts on an aggregated basis when consistent with the Adviser's obligation of best execution. In such circumstances, the affiliated and client accounts will share commission costs equally and receive securities at a total average price. The Adviser will retain records of the trade order (specifying each participating account) and its allocation. 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 described in detail.

The Adviser may, from time to time and only when it meets the best interests of all clients involved, effect agency cross transactions. Although the Adviser generally does not receive or pay any fees with respect to agency cross transactions effected for its clients, it may receive compensation if it complies with all the requirements of Rule 206(3)-2 of the Advisers Act. Generally, an "agency cross transaction" is defined by Rule 206(3)-2(b) of the Advisers Act as "a transaction...in which [an] investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, acts as

broker for both such advisory client and for another person on the other side of the transaction.” In an agency cross transaction, the incentive for certain advisers affiliated with broker dealers to earn additional compensation may create a conflict of interest. Rule 206(3)-2 permits the Adviser to act as broker for both its advisory client and the party on the other side of the brokerage transaction without obtaining the client's prior consent to each transaction provided that the Adviser complies with certain conditions as set forth under the Advisers Act and as discussed in this Brochure.

Generally, the Adviser may have a conflicting duty of loyalty to both of the clients for whom it conducts agency cross transactions. Therefore, the Adviser has adopted an agency cross transaction policy and procedures designed to promote fairness among the client accounts managed by the Adviser and to conform to applicable rules and regulations. The Adviser will only conduct agency cross transactions if it is in the best interests of all clients involved in agency cross transactions and the transactions comply with the Adviser's policies and procedures for best price and best execution.

The Adviser will not conduct agency cross transactions for certain NQDC plans or for clients whose accounts are governed by state insurance laws unless those transactions comply with the Adviser's policies and procedures in respect of agency cross transactions.

Each agency cross transaction conducted by the Adviser will be effected at the independent current market price of the security. To its clients for whom it conducts agency cross transactions on an annual basis, and with or as part of any written account statement from the Adviser, the Adviser provides a written disclosure statement identifying the total number of such agency cross transactions during the period since the date of the last such statement, and the total amount of all commissions or other remuneration received or to be received by the Adviser.

## **ITEM 12 – BROKERAGE PRACTICES**

ECM does not require customers to conduct any transactions through brokerage firms chosen by us. We do not recommend that customers use any specific brokerage firms, nor do we receive any consideration from any brokerage firm in connection with client transactions.

## **ITEM 13 – REVIEW OF ACCOUNTS**

### **Services Offered to Clients and Their Participants:**

#### Advisor Managed Portfolios

Advisor Managed Portfolios are monitored regularly both for the portfolio performance and changes to the fund managers of the underlying deemed investments. On a quarterly basis, ECM reviews the performance of each Advisor Managed Portfolio, as well as the underlying fund managers, in comparison to appropriate asset class or composite (multiple asset class) benchmarks. The overall asset allocation strategy for each of the Advisor Managed Portfolios is reviewed on at least an annual basis.

For underlying fund manager review, we utilize various tools including an outside service provider to notify us in the event of a manager change. When there is a manager change, we will assess the impact of the change and determine if the underlying fund still meets our criteria for inclusion in the Advisor Managed Portfolios.

#### Investment Consulting Reviews

ECM will review accounts as provided in the investment consulting agreement with the client. Such reviews generally include a market overview, account performance, individual investment (fund) performance and review, and asset allocation review (when applicable). For our plans with plan investment review services, review frequency can vary because our plan review service is custom-



tailored to each plan. Generally, the review is completed annually, typically following year-end. Performance results and other relevant plan-level statistics are evaluated and reported to the client. During this time, ECM may make specific investment and/or plan-related recommendations to better suit the needs of the plan and its participants.

With respect both to Advisor Managed Portfolios and the Investment Consulting Reviews, ECM's services are limited to the activities discussed above. In particular, while we would consider significant changes in the investment practices of a fund that we are informed of, we do not otherwise monitor the fund for changes in investment concentration and/or "style drift" that occur within the parameters of the fund's existing investment objective and policies. Clients are encouraged to consult the fund's periodic reports and/or to contact the fund directly, for such level of detail concerning the fund's portfolio holdings.

#### **ITEM 14 – CLIENT REFERRALS AND OTHER COMPENSATION**

Certain Empower employees and unaffiliated individuals with whom ECM entered into solicitation agreements (referred to as Agents) may solicit, refer and market ECM's services. ECM does not pay any compensation directly to Agents for the solicitation activities performed by Agents. The Agents may receive compensation in the form of a salary and a variable bonus paid by Empower. No commissions are paid to Agents for the services.

Some Agents may earn bonus compensation based upon engaging plan sponsors to offer ECM's services. Other Agents and representatives may be indirectly compensated through bonus compensation, in addition to their salary, for communication, education and/or assisting participants to enroll in ECM's Services. The incentive compensation an investment representative receives depends on position type, but generally is calculated based on Empower Retirement's and/or EAICA's profitability and the achievement of individual performance goals that may include factors unrelated to an account holder's adoption of investment products or services offered through Empower Retirement.

Some Agents and investment representatives' individual performance goals and their related incentive compensation is based on a combination of factors including the number and quality of customer engagements during the measurement period and the amount of customer assets retained as result of the engagements. The rate of incentive compensation considers the total amount of retained or accumulated assets, compared with the monthly asset goal, as determined on a periodic basis. The asset goal is generally set on an annual basis and may differ by product or account type. Additional factors may include certain qualitative factors, such as leadership, teamwork, client experience, quality and efficiency of client interactions, and adherence to corporate policies and regulatory standards. **Compensation paid to Agents does not increase the fees paid by the plan, plan sponsor or plan participants.**

#### **Solicitation Arrangements:**

ECM contracts with individuals and organizations that solicit clients on our behalf. While solicitation agreements may vary under certain circumstances such as, but not limited to, a pre-existing relationship, significant assets under management and specific contractual requirements of the proposed client, generally we may pay:

- For Advisor Managed Portfolios, a solicitor's fee of up to 50% of annualized revenue derived from ECM's advisory fee.
- For any other investment advisory or investment consultation service, a solicitor's fee of up to 25% of first year revenue derived from ECM's advisory fee.

The payment of a solicitation fee does not impact the amount a client pays for their services. Solicitors only refer or introduce clients to us and may not market or otherwise promote us or our services.

## **ITEM 15– CUSTODY**

The Adviser does not maintain custody of its clients' cash, bank accounts, or securities. The Adviser may debit advisory fees directly from client account without client approval of each transaction. For certain of the Adviser's Clients including the Collective Investment Trusts, Empower Accounts (which include various separate accounts or pooled investment vehicles established or sponsored by EAICA, EAIC or ELAINY and for which the contract owners are otherwise the "beneficial owners") and the Diversified Stable Value Portfolios, the Adviser may be deemed to have custody of these assets even though the Adviser does not actually hold or maintain such assets.

These Clients are subject to specific procedures as summarized below. Each account is subject to an audit that meets all of the following conditions:

- Conducted at least annually by an independent public accountant that is registered with, and subject to regular inspection as of the commencement of the professional engagement period, and as of each calendar year-end, by the Public Company Accounting Oversight Board in accordance with its rules, and;
- The audited financial statements are prepared in accordance with generally accepted accounting principles with respect to all members or other beneficial owners of each respective Client.

The audited financial statements prepared in accordance with these procedures are distributed to all beneficial owners of each respective Client within 120 days of the end of the fiscal year or in a prompt manner upon liquidation of a Client.

## **ITEM 16– INVESTMENT DISCRETION**

For Advisor Managed Portfolio NQDC plan sponsor clients, in most cases, ECM has full investment discretion and provides oversight to these portfolios, which enables ECM to make changes to the portfolios as it deems necessary. ECM does not need the approval of the plan sponsor to make any allocation or underlying fund manager changes in the portfolios.

For instances where an outside advisor is selecting the investments to be utilized in the plan or where a client instructs ECM to only allocate to plan investments offered to plan participants, ECM has discretion over the allocation percentages of the portfolios only and will not allocate to investments not offered in the plan. ECM does not exercise discretion for any other services. See Item 4 for further information.

## **ITEM 17– VOTING CLIENT SECURITIES**

ECM, as a registered investment adviser, and as a matter of practice, does not accept authority to vote client securities in connection with any of the services described in this Brochure. Correspondence regarding the matters described in this section will be handled in connection with the plan's policies and service provider arrangements.

## **ITEM 18– FINANCIAL INFORMATION**

ECM is a registered investment adviser under the Advisers Act. Accordingly, it is required to provide certain financial information or disclosures about its financial condition. The Adviser has no financial commitment that is reasonably likely to impair its ability to meet its contractual obligations, nor has the Adviser been the subject of a bankruptcy proceeding. Further, ECM does not require or solicit prepayment of fees in excess of \$1,200 per client more than six months in advance.