



## **Banyan Capital Management, Inc.**

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**March 7, 2023**

### **FORM ADV PART 2A BROCHURE**

This brochure provides information about the qualifications and business practices of Banyan Capital Management Inc. If you have any questions about the contents of this brochure, contact us at (770) 951-2129. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

Additional information about Banyan Capital Management Inc is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

Banyan Capital Management Inc is a registered investment adviser. Registration with the United States Securities and Exchange Commission or any state securities authority does not imply a certain level of skill or training.

## 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.

On March 7, 2023, we submitted our annual updating amendment filing for fiscal year 2023. A part of this update, we made the following changes to our Form ADV Part 2A Brochure:

- We amended Item 4 to disclose that as of December 31, 2022, Alek Nabulsi is no longer an owner of RedGate Partners, LLC, the firm's principal owner. Drew D. Estes now owns 97% and Ms. Beaton owns 3% of RedGate Partners, LLC.
- We amended Item 5 to provide certain disclosures about IRA rollovers.

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## **Item 4 Advisory Business**

### **Firm Description**

Banyan Capital Management, Inc. has been in business since November 1987.

Banyan Capital Management, Inc. is an investment counseling firm based in Atlanta, Georgia. We are value investors with a long-time horizon and a focus on publicly-traded companies. Our philosophy is to build wealth by investing primarily in equity securities of good companies run by shareholder-oriented managers. We purchase the securities of these companies when (1) the market price is at a significant discount to our assessment of what the company is really worth and (2) when we expect the value of the company to grow. We sell when prices approach or exceed our assessment of value or when the value of the company begins to erode.

### **Principal Owners**

The firm's principal owner is RedGate Partners, LLC of which Drew D. Estes and Charlene Beaton co-own. Mr. Estes owns 97% and Ms. Beaton owns 3%.

### **Advisory Services**

Banyan Capital Management, Inc. provides investment supervisory services to individuals, pension and profit-sharing plans, trusts, estates, or charitable organizations and corporations or business entities other than those listed above. We primarily invest in equity securities including exchange-listed securities, securities traded over-the-counter and foreign issuers, corporate debt securities (other than commercial paper) and mutual funds. We have the flexibility to invest in other security types when we feel it would assist in meeting a client's investment objectives.

### *Tailored Relationships*

Banyan Capital Management, Inc. has full authority to buy and sell securities in client accounts, subject to guidelines set forth in the client's individualized Statement of Investment Policy. There are some situations, however, where a client requests that certain securities be retained in the portfolio, or where the client has placed restrictions on using certain types of investments for philosophical or religious reasons. We adhere closely to those restrictions.

### **Assets Under Management**

As of December 31, 2022, we provide continuous management services for \$169,573,451 in client assets, all on a discretionary basis.

## **Item 5 Fees and Compensation**

### **Description**

Banyan Capital Management, Inc. provides investment advisory services for a percentage of assets under management.

### **Fee Billing**

The fee is based on market value of client accounts as of the last business day of the quarter.

The fee schedule is as follows:

#### Equity/Balanced Accounts

First	\$ 1,000,000	1.000%
Next	\$ 2,000,000	0.750%
Next	\$ 7,000,000	0.625%
Above	\$10,000,000	0.500%

#### Mutual Fund Accounts

First	\$1,000,000	0.500%
Over	\$1,000,000	0.375%

#### Fixed Income Accounts

First	\$2,000,000	0.375%
Next	\$3,000,000	0.300%
Over	\$5,000,000	0.200%

Fees are not negotiable.

Clients have a choice whether Banyan Capital Management, Inc. deducts fees from their managed accounts or to be invoiced directly for payment. Clients must provide written authorization for direct debiting of advisory fees.

#### **Other Client Investment Expenses**

Brokerage commissions paid by Banyan clients may vary within reasonable limits among the firms Banyan Capital Management, Inc. deals with. This variation is acceptable to Banyan and we believe is in the best interest of our clients, recognizing the variations in the level of services provided by different brokerage firms (see **Item 12 - Brokerage Practices**).

Banyan Capital Management, Inc. may use no-load mutual funds to satisfy some or all of a client's portfolio requirements. In arranging for a purchase or sale of some but not all of these no-load mutual funds, a modest commission (currently \$24 or \$31 per trade) may be charged by a broker that could otherwise be acquired directly from the mutual fund at no transaction expense (see **Item 12 - Brokerage Practices**).

Fees paid to Banyan Capital Management, Inc. 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 Banyan Capital Management, Inc. 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, Banyan Capital Management, Inc. and others to fully understand the total amount of fees paid by the client for investment and financial-related services.

#### **Fees Paid in Advance**

Client fees are payable on a quarterly basis in advance. Clients may terminate the Investment Management Agreement by written notice at any time. Fees will be prorated to date of termination based on the number of days the account was managed during the billing quarter and any unearned portion of prepaid fees will be refunded to client.

#### **Billing on Cash Positions**

The Firm treats cash and cash equivalents as an asset class. Accordingly, unless otherwise agreed

upon with the client, all cash and cash equivalent positions (e.g., money market funds) are included as part of assets under management for purposes of calculating the Firm's advisory fee. Based on individual account circumstances, the Firm retains the right to exclude cash and cash equivalents from its billing calculations at its discretion.

### **Billing on Margin**

Occasionally, the Firm will use margin in a client's account(s). When margin is used, the outstanding margin balance is included as part of assets under management for purposes of calculating the Firm's advisory fee. To avoid potential conflicts of interest, the Firm maintains the right to exclude outstanding margin balances in certain cases.

### **IRA Rollover Considerations**

As a normal extension of financial advice, we provide education or recommendations related to the rollover of an employer-sponsored retirement plan. A plan participant leaving employment has several options. Each choice offers advantages and disadvantages, depending on desired investment options and services, fees and expenses, withdrawal options, required minimum distributions, tax treatment, and the investor's unique financial needs and retirement plans. The complexity of these choices may lead an investor to seek assistance from us.

An Associated Person who recommends an investor roll over plan assets into an Individual Retirement Account ("IRA") may earn an asset-based fee as a result, but no compensation if assets are retained in the plan. Thus, we have an economic incentive to encourage an investor to roll plan assets into an IRA. In some cases, fees and expenses will increase to the investor as a result because the above-described fees will apply to assets rolled over to an IRA and outlined ongoing services will be extended to these assets.

We are fiduciaries under the Investment Advisers Act of 1940 and when we provide investment advice to you regarding your retirement plan account or individual retirement account, we are also 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. We must act in your best interests and not put our interest ahead of yours. At the same time, the way we make money creates some conflicts with your interests.

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

Banyan Capital Management, Inc. 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 Banyan Capital Management, Inc. has no performance-based fee accounts, it has no side-by-side management.

## **Item 7 Types of Clients**

### **Description**

Banyan Capital Management, Inc. provides investment supervisory services to individuals, pension and profit-sharing plans, trusts, estates.

If a client is subject to ERISA, Banyan represents and warrants that it is a "fiduciary" as defined in ERISA.

### **Account Minimums**

For an equity-only or a balanced account, Banyan Capital Management, Inc. has a minimum requirement of \$1,000,000 for accepting a new client; this requirement could be spread over more than one account. We reserve the right to adjust this minimum at our discretion.

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

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

Banyan Capital Management, Inc. takes a fundamental approach when analyzing securities. Fundamental analysis involves analyzing individual companies and their industry groups, such as a company's financial statements, details regarding the company's product line, the experience and expertise of the company's management, and the outlook for the company's industry. The resulting data is used to measure the true value of the company's stock compared to the current market price.

The main source of information used in this fundamental security analysis is financial newspapers and magazines, research materials prepared by others, annual reports, prospectuses, filings with the Securities and Exchange Commission and company press releases. Employees of Banyan Capital Management also attend on- and off-site visits with fund and portfolio managers, conference calls and industry conferences.

Banyan Capital Management, Inc.'s strategic approach is to invest each portfolio in accordance with the Statement of Investment Policy 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 portfolio objectives. Short-term purchases and margin transactions are rarely used.

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.

### **Investment Strategies**

#### **Equity Portfolios**

We employ a value-oriented investing strategy in the equity portfolios we manage. Portfolios typically consist of 15-20 stocks that we carefully select based on our own research and ideas. Turnover tends to be quite low - in a typical year we might buy and sell 2-4 positions. Our average holding period is measured in years. The minimum initial investment is \$1,000,000 in cash and/or securities.

#### **Buy Discipline**

We look to purchase the stocks of good businesses that have shareholder-oriented management. We want to see the stock trading at a discount to our estimated value and we want to see the business value growing over time.

#### **Discount to Value**

We make an investment when the market price of a stock trades at a discount to our estimate of what the company is really worth. We generally use two methods to assess value. One way is to estimate the liquidation value of a company given private market transactions for similar assets and liabilities.

Our other method is to compare a firm's earnings power yield relative to bonds and other equities within the context of earnings sustainability and growth prospects. Often, when a company's stock price trades at a steep discount to value, our decision to buy runs counter to prevailing market psychology. Adherence to this process moves investing from an art to a discipline.

### **Sell Discipline**

We generally sell a portfolio holding for one of the following reasons:

Stock Price Has Reached Fair Value Or Overvaluation - When the price of a stock goes up to fair value, the prospect for further capital appreciation is diminished and, more importantly, the risk profile of the investment has increased. We may continue to hold stocks that are trading near intrinsic value as long as intrinsic value is increasing.

Business Intrinsic Value Deterioration - The prices of common stocks fluctuate - sometimes widely - for a variety of reasons. While this may be disconcerting, we mostly do not worry about price fluctuations. Instead, we focus on changes in intrinsic value, which is what the company itself is really worth. Although a declining stock price is not necessarily something of concern, a decline in the value of the actual company is another matter. Such occurrences may result from poor capital allocation decisions, permanent threats to future earnings power from an external source, or other reasons. We study these devaluations thoroughly and we may decide to sell the position based upon our findings.

### **Using Mutual Funds**

Banyan uses mutual funds to provide specialized asset allocations, such as international or fixed-income exposure, for a balanced portfolio. Funds also serve to accommodate modest-sized, add-on accounts for existing clients. Banyan generally seeks out mutual funds whose managers share our long-term, value-oriented approach to investing and have a successful track record.

Low Expense Ratio - Banyan chooses those mutual funds with operating costs that are comparatively low as a percentage of total assets. All charges are explained in each fund's prospectus.

Intelligent Currency Risk - When investing in international funds we may utilize those funds that seek to enhance returns by assuming some currency risk.

Fixed-Income Funds Invest for Total Return - The funds we select to meet the needs of our fixed-income clients are those in the multi-sector category. While these funds are chosen to reduce interest rate risk, they are subject to increased specific issue risk and may be more sensitive to changes in the economic cycle.

### **Risk of Loss**

Regardless of how many precautions investors undertake, it is possible to lose money in the securities markets. Investing in securities involves risk of loss that clients should be prepared to bear.

To help reduce risk in portfolios that contain individual securities, Banyan compares the current prices of the securities held in client portfolios to Banyan's estimate of intrinsic value for each security. Banyan's effort in this regard is ongoing and unending. If a security is trading close to or at intrinsic value, Banyan reviews whether or not to sell the security to reduce risk. Banyan believes that selling a security trading close to or at intrinsic value helps reduce risk because we are selling a security that has less potential for positive returns and greater potential for negative returns.

The three major risks involved with a value-oriented investment strategy are:

A Misperception Of The Intrinsic Value Of A Company - It is possible to misjudge the intrinsic value of



a business by a fair amount. For example, one can misjudge the amount of earnings or cash flow a company is able to generate or one can misprice certain assets on the balance sheet. When we give a new valuation to a business, we undertake a thorough review of the updated price to value relationship, which may be considerably less advantageous for shareholders.

A Decline In The Intrinsic Value Of A Company - The value of a company can depreciate due to the natural evolution of the business environment, technological innovations, regulatory changes, legal developments and possibly other factors. Such a decline in value may or may not place the value below the current market price of the security. In any event, a thorough review of the new price to value relationship must be undertaken. That new relationship may be considerably less advantageous for shareholders.

A Misperception Of Company Management - When management carries out unforeseeable actions that destroy value in a business, the stock price generally will decline. It is first important to assess the likelihood management may be replaced. Once management engages in activity that destroys value, all too often such behavior is repeated. A thorough review of the new price to value relationship must be undertaken. That new relationship may be considerably less advantageous for shareholders.

## **Other Portfolio Risks**

### *Management Risks*

While Banyan Capital Management, Inc. manages client investment portfolios based on Banyan Capital Management, Inc.'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.

### *Risks of Investments in Mutual Funds and ETFs*

As described above, Banyan Capital Management, Inc. may invest client portfolios in mutual funds and ETFs. Investments in mutual funds and ETFs are subject to risks associated with the markets in which they invest. In addition, the success of a mutual fund or ETF will be related to the skills of their particular managers. Mutual Funds and ETFs are also subject to risks due to regulatory restrictions applicable to registered investment companies under the Investment Company Act of 1940 which, among other things, limit their holdings in certain securities and limit the receipt of income associated with non-security investments such as commodities.

### *Equity Market Risks*

Banyan Capital Management, Inc. will generally invest portions of client assets directly into equity investments, primarily stocks, or into mutual funds that invest in the stock market. Investments in individual securities and mutual funds that invest in stocks and other equity securities are subject to the risks of the stock market. Among other things, investments in stocks are subject to short-term price volatility and the risk that stock values may 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*

Banyan Capital Management, Inc. may invest portions of client assets directly into fixed income instruments, such as bonds and notes, or may invest in mutual funds that invest in bonds and notes. Fixed income investments are subject to risks which include, without limitation, interest rate risks (risks that changes in interest rates will devalue the investments - securities with longer maturities are more sensitive to interest rate changes), credit risks (risks of default by borrowers) and inflation risk (inflation erodes the purchasing power of the income received over the life of a bond).

## **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 Banyan or the integrity of Banyan Capital Management, Inc.'s management. Banyan Capital Management, Inc. has no disciplinary events to report.

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

Neither Banyan Capital Management, Inc. 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**

In order to provide an understanding of Banyan Capital Management, Inc.'s standards for meeting our fiduciary responsibility to clients, Banyan has developed a Code of Ethics that must be adhered to by all Banyan Employees and Supervised Persons. This Code sets forth standards of conduct expected of advisory personnel and addresses conflicts that arise from personal trading by advisory personnel. This Code includes limitations on personal trading by employees, reporting requirements for employee's securities holdings and personal securities transactions and insider trading policies and procedures. A copy of Banyan's Code of Ethics is available to clients and potential clients upon request.

Compliance with the provisions of this Code of Ethics shall be considered a basic condition of employment and or contract with Banyan. It is important that employees and Supervised Persons understand the reasons for compliance with this Code. Banyan's reputation for fair and honest dealing with its clients and the investment community in general, has taken considerable time to build. This standing could be seriously damaged as the result of even a single securities transaction considered questionable in light of the fiduciary duty owed to our clients. Employees and Supervised Persons are urged to seek the advice of the CCO for any questions as to the application of this Code to their individual circumstances. Employees should also understand that a material breach of the provisions of this Code may constitute grounds for termination of employment with Banyan.

### **Recommend Securities with Material Financial Interest**

Banyan Capital Management and its employees do not act as principal in buying securities from (or selling securities to) our clients. We do not act as general partner in a partnership in which we solicit client investments. We do not act as an investment adviser to an investment company that we recommend to clients.

### **Invest in Same Securities Recommended to Clients**

Banyan Capital Management, Inc. and Banyan's employees may buy or sell securities which are also recommended to clients. Such transactions should occur after or contemporaneously with purchases or sales in client accounts.

### **Personal Trading Policies**

The Code sets forth policies and procedures to monitor and review the personal trading activities of Supervised and associated persons. From time to time Banyan Capital Management, Inc.'s Supervised and associated persons may invest in the same securities utilized in client portfolios. Under its Code, Banyan Capital Management, Inc. 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.

## **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, Banyan Capital Management, Inc. 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, Banyan Capital Management, Inc. 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 Banyan Capital Management, Inc.'s clients. Therefore, research services received may not be used for the account for which the particular transaction was effected.

Banyan Capital Management, Inc. participates in the institutional advisor program (the "Program") offered by TD Ameritrade Institutional, a division of TD Ameritrade Inc., member FINRA/SIPC/NFA ("TD Ameritrade"). TD Ameritrade offers its Program to independent investment advisers. The Program includes such services as custody of securities, trade execution, clearance and settlement of transactions. Banyan Capital Management, Inc. receives some benefits from TD Ameritrade through its participation in the Program. Banyan Capital Management, Inc. is independently owned and operated and is not affiliated with TD Ameritrade.

Banyan Capital Management, Inc. may recommend TD Ameritrade to Clients for custody and brokerage services. While there is no direct link between Banyan Capital Management, Inc.'s participation in the Program and the investment advice it gives to its Clients, through its participation in the Program Banyan Capital Management, Inc. receives economic benefits that are typically not available to TD Ameritrade retail investors. These benefits generally include, without limitation, the following products and services (provided without cost or at a discount): receipt of duplicate Client statements and confirmations; consulting services; access to a trading desk serving Program participants; access to block trading (which provides the ability to aggregate securities transactions for execution and then allocate the appropriate shares to Client accounts); the ability to have advisory fees deducted directly from Client accounts; access to an electronic communications network for Client order entry and account information; access to mutual funds with no transaction fees and to certain institutional money managers; and discounts on compliance, marketing, research, technology, and practice management products or services provided to Banyan Capital Management, Inc. by third party vendors. TD Ameritrade may also pay for business consulting and professional services received by Banyan Capital Management, Inc.'s related persons. These services are not soft dollar arrangements, but are part of the institutional platform offered by TD Ameritrade.

Some of the products and services made available by TD Ameritrade through the Program may benefit Banyan Capital Management, Inc. but may not directly benefit its Client accounts. These products or services may assist Banyan Capital Management, Inc. in managing and administering Client accounts, including accounts not maintained at TD Ameritrade. Other services made available by TD Ameritrade are intended to help Banyan Capital Management, Inc. manage and further develop its business enterprise. The benefits received by Banyan Capital Management, Inc. or its personnel through participation in the Program do not depend on the amount of brokerage transactions directed to TD Ameritrade. As part of its fiduciary duties to clients, Banyan Capital Management, Inc. endeavors at all

times to put the interests of its clients first. Clients should be aware, however, that the receipt of economic benefits by Banyan Capital Management, Inc. or its related persons in and of itself creates a potential conflict of interest and may indirectly influence Banyan Capital Management, Inc.'s choice of TD Ameritrade for custody and brokerage services.

### **Directed Brokerage**

Clients may direct Banyan Capital Management, Inc. to use a particular broker for custodial or transaction services on behalf of the client's portfolio. In directed brokerage arrangements, the client is responsible for negotiating the commission rates and other fees to be paid to the broker. Accordingly, a client who directs brokerage should consider whether such designation may result in certain costs or disadvantages to the client, either because the client may pay higher commissions or obtain less favorable execution, or the designation limits the investment options available to the client.

The arrangement that Banyan Capital Management, Inc. has with TD Ameritrade is designed to maximize efficiency and to be cost effective. By directing brokerage arrangements, the client acknowledges that these economies of scale and levels of efficiency are generally compromised when alternative brokers are used. While every effort is made to treat clients fairly over time, the fact that a client chooses to use the brokerage and/or custodial services of these alternative service providers may in fact result in a certain degree of delay in executing trades for their account(s) and otherwise adversely affect management of their account(s).

By directing Banyan Capital Management, Inc. to use a specific broker or dealer, clients who are subject to ERISA confirm and agree with Banyan Capital Management, Inc. that they have the authority to make the direction, that there are no provisions in any client or plan document which are inconsistent with the direction, that the brokerage and other goods and services provided by the broker or dealer through the brokerage transactions are provided solely to and for the benefit of the client's plan, plan participants and their beneficiaries, that the amount paid for the brokerage and other services have been determined by the client and the plan to be reasonable, that any expenses paid by the broker on behalf of the plan are expenses that the plan would otherwise be obligated to pay, and that the specific broker or dealer is not a party in interest of the client or the plan as defined under applicable ERISA regulations.

### **Order Aggregation**

Banyan Capital Management, Inc. may enter trades as a block where possible and when advantageous to clients whose accounts have a need to buy or sell shares of the same security. This blocking of trades permits the trading of aggregate blocks of securities composed of assets from multiple client accounts, so long as transaction costs are shared equally and on a pro-rata basis between all accounts included in any such block. Block trading allows Banyan Capital Management, Inc. to execute equity trades in a timelier, equitable manner, and may reduce overall costs to clients.

Banyan Capital Management, Inc. will only aggregate transactions when it believes that aggregation is consistent with its duty to seek best execution (which includes the duty to seek best price) for its clients, and is consistent with the terms of Banyan Capital Management, Inc.'s Investment Advisory Agreement with each client for which trades are being aggregated. No advisory client will be favored over any other client; each client that participates in an aggregated order will participate at the average share price for all Banyan Capital Management, Inc.'s transactions in a given security on a given business day, with transaction costs generally shared pro-rata based on each client's participation in the transaction. On occasion, owing to the size of a particular account's pro rata share of an order or other factors, the commission or transaction fee charged could be above or below a breakpoint in a pre-determined commission or fee schedule set by the executing broker, and therefore transaction charges may vary slightly among accounts. Accounts may be excluded from a block due to tax considerations, client direction or other factors making the account's participation ineligible or

impractical.

Banyan Capital Management, Inc. will prepare, before entering an aggregated order, a written statement ("Allocation Statement") specifying the participating client accounts and how it intends to allocate the order among those clients. If the aggregated order is filled in its entirety, it will be allocated among clients in accordance with the Allocation Statement. If the order is partially filled, it will generally be allocated on a random basis among the participating accounts. Notwithstanding the foregoing, the order may be allocated on a basis different from that specified in the Allocation Statement if all client accounts receive fair and equitable treatment, and the reason for different allocation is explained in writing and is approved by an appropriate individual/officer of Banyan Capital Management, Inc. Banyan Capital Management, Inc.'s books and records will separately reflect, for each client account included in a block trade, the securities held by and bought and sold for that account. Banyan Capital Management, Inc. will receive no additional compensation or remuneration of any kind as a result of the proposed aggregation.

## **Item 13 Review of Accounts**

All stocks and mutual funds held in client accounts, or being tracked as potential investments, are priced daily using an on-line pricing service. These stocks and mutual funds are also monitored on a daily basis for significant price changes, or for any new information which might affect the future outlook.

Client accounts are also updated daily using a computerized portfolio management system. Purchases and sales in client accounts are recorded daily and all accounts are updated daily to reflect current market values. Each account is reviewed before a new investment is made to make sure the action falls within the guidelines specified in the client's Statement of Investment Policy. Clients are provided with a written Portfolio Review and a Performance Summary report at the end of each quarter and an effort is made to meet with each client at least once a year to review portfolio activity and to discuss any changes which might be pertinent to their needs. We are also in contact with the client by phone, e-mail or letter at the end of each quarterly reporting period.

Drew Douglas Estes (Partner and Portfolio Manager) is primarily responsible for following each investment and for maintaining contact with the clients.

### **Review Triggers**

Account reviews are performed more frequently when market conditions dictate or when a client's objectives change. A review may be triggered by client request, changes in market condition, new information about an investment, changes in tax laws or other important changes.

### **Regular Reports**

Clients are provided with a written Portfolio Review and a Performance Summary report at the end of each quarter. The Portfolio Review contains a list of the assets held, the original cost of each investment (for taxable accounts) and the current market value, the amount of interest and dividend income and the percentage of the total portfolio comprised by each investment and each category of investment. The Performance Summary report shows the total portfolio return (from both investment income and capital appreciation). Total portfolio returns may be shown for the latest quarter, the year to date, for the past twelve months and since inception of the client relationship. These returns are compared with appropriate indexes such as the Standard & Poor's 500, Barclay Corporate Bond Index, Barclay Municipal Bond Index and the EAFE Index (for foreign stocks).

## Item 14 Client Referrals and Other Compensation

We do not receive any compensation from any third party in connection with providing investment advice to you.

Refer to the *Brokerage Practices* section above for disclosures on research and other benefits we may receive resulting from our relationship with your account custodian.

## Item 15 Custody

As paying agent for our firm, 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.

We will also provide statements to you reflecting the amount of the advisory fee deducted from your account. You should compare our statements with the statements from your account custodian(s) to reconcile the information reflected on each statement. If you have a question regarding your account statement, or if you did not receive a statement from your custodian, contact us immediately at the telephone number on the cover page of this brochure.

### Wire Transfer Authority

With respect to third party standing letters of authorization ("SLOA") where a client may grant us authority to direct custodians to disburse funds to one or more third party accounts, we are deemed to have limited custody pursuant to Rule 206(4)-2 (the "Custody Rule"). We have taken steps to have controls and oversight in place to support the no-action letter issued by the SEC on February 21, 2017 (the "SEC no-action letter").

We are not required to comply with the surprise examination requirements of the Custody Rule if we are in compliance with the representations noted in the SEC no-action letter. Where the Adviser acts pursuant to a SLOA, we believe we are making a good faith effort to comply with the representations noted in the SEC no-action letter. Additionally, since many of the representations noted in the SEC no-action letter involve the qualified custodian's operations, we will collaborate closely with our custodian(s) to ensure that the representations are met.

## Item 16 Investment Discretion

As described above under *Item 4 - Advisory Business*, Banyan Capital Management, Inc. manages portfolios on a discretionary basis. This means that after an investment plan is developed for the client's investment portfolio, Banyan Capital Management, Inc. will execute that plan without specific consent from the client for each transaction. For discretionary accounts, a Limited Power of Attorney ("LPOA") is executed by the client, giving Banyan Capital Management, Inc. the authority to carry out various activities in the account, generally including the following: trade execution; the ability to request checks on behalf of the client; and, the withdrawal of advisory fees directly from the account. Banyan Capital Management, Inc. then directs investment of the client's portfolio using its discretionary authority. The client may limit the terms of the LPOA to the extent consistent with the client's investment advisory agreement with Banyan Capital Management, Inc. and the requirements of the

client's custodian. The discretionary relationship is further described in the agreement between Banyan Capital Management, Inc. and the client.

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

Banyan Capital Management, Inc. does not have authority to vote client securities. Clients receive their proxies or other solicitations directly from their custodian or a transfer agent. Clients are free to contact Banyan via telephone, e-mail or in writing with any questions about a particular solicitation.

### **Item 18 Financial Information**

Our firm does not have any financial condition or impairment that would prevent us from meeting our contractual commitments to you. We do not take physical custody of client funds or securities, or serve as trustee or signatory for client accounts, and, we do not require the prepayment of more than \$1,200 in fees six or more months in advance. Therefore, we are not required to include a financial statement with this brochure.

We have not filed a bankruptcy petition at any time in the past ten years.

### **Item 19 Requirements for State Registered Advisers**

We are a federally registered investment adviser; therefore, we are not required to respond to this item.