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**Form ADV Part 2A**

**Element Capital Management LLC**

**March 30, 2023**

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This brochure provides information about the qualifications and business practices of Element Capital Management LLC. If you have any questions about the contents of this brochure, please contact us at 212-993-7000. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the “SEC”) or by any state securities authority.

Additional information about Element Capital Management LLC also is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

Registration with the SEC does not imply any level of skill or training.

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## **Item 2. Material Changes**

This document serves as Element's brochure and is dated as of March 30, 2023. The following specific material changes have been made to the brochure since Element's last update, which was filed on March 30, 2022:

- Item 4 has been updated to reflect Element's regulatory assets under management as of December 31, 2022.

Please note that the above summary addresses only those changes that Element has determined to be material, and therefore, does not reflect all of the changes that have been made to this brochure since the last annual update.

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#### **Item 4. Advisory Business**

Element Capital Management LLC (“Element”) is an investment adviser with its principal place of business in New York, New York. Element, a Delaware limited liability company, was formed in February 2007 and commenced operations as an investment adviser in June 2007. Jeffrey M. Talpins is the principal owner of Element, and Element Capital Partners LLP (the “Relying Adviser”). Mr. Talpins launched the Element Capital Master Fund Limited in April 2005 and has continuously headed its investment activities since that time, previously for Proxima Alfa (USA) LLC and since June 2007, for Element.

Element employs a Modern Macro style of global macro investing. Modern Macro is a multi-process investment approach that integrates macro fundamental, systematic and relative value analysis, generally combining these processes within a given investment strategy. Element expresses its macro views using primarily fixed income, foreign exchange and equity instruments. Element’s investment team utilizes its proprietary base of technology, disciplined risk management, innovative trade structuring and advanced portfolio construction techniques to implement its strategies. Mr. Talpins, the Chief Executive Officer and Chief Investment Officer of Element, provides strategic direction for Element.

Element, together with the Relying Adviser, provides investment advisory services to pooled investment vehicles intended for sophisticated and institutional investors (the “Element Funds”). Element provides advice to the Element Funds tailored to the investment objectives and strategies set forth in each Element Fund’s offering memorandum. The Element Funds do not impose restrictions on investing in certain securities or certain types of securities. In the future, Element may also provide investment advisory services to sophisticated and institutional investors through separate accounts or other pooled investment vehicles (such separate accounts and/or pooled investment vehicles together with the Element Funds, the “Clients”).

As of December 31, 2022, Element had \$68,583,169,649 of regulatory assets under management, all of which are managed on a discretionary basis on behalf of the Element Funds.

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## **Item 5. Fees and Compensation**

Each Element Fund's offering memorandum sets forth the compensation to be paid to Element. The Element Funds pay an asset-based management fee and are subject to a performance-based allocation. While management fees and performance allocations for each class of shares or interests in the Element Funds are non-negotiable, different classes of shares or interests in the Element Funds are subject to different performance allocations. Additionally, a certain class of shares in the Element Funds that is available only to related persons of Element is not required to pay management fees or make performance allocations.

### **MANAGEMENT FEE**

Each Element Fund pays Element a management fee equal to 2% per annum of the net asset value of the Element Fund's shares or interests. Management fees are payable monthly in arrears and are deducted from the Element Funds' assets. The management fees will be prorated in the event of any intra-month subscription or redemption.

### **PERFORMANCE ALLOCATION**

Element Capital Holdings LLC, an affiliate of Element, also receives an annual performance allocation ranging from 20% to 40% of the net capital appreciation (both realized and unrealized) of the assets of the Element Funds, subject to a "high water mark" provision. The performance allocation will be made annually in arrears and upon any redemption or withdrawal of shares or interests in the Element Funds, and is deducted from the Element Funds' assets.

### **EXPENSES**

In addition to the management fees and performance allocations, each Element Fund also pays certain costs and expenses in connection with its operation, including without limitation, withholding taxes that may arise on investments, registration fees and other expenses due to regulatory, supervisory or fiscal authorities in various jurisdictions, including costs associated with maintaining an offering of shares or interests and costs related to making shares or interests available for purchase in certain jurisdictions, expenses associated with regulatory compliance obligations, regulatory filings and reporting to the extent such relate to the Element Fund or its investment activities, fund administration fees and expenses (including the fees and expenses associated with Cayman Islands AML officer services for each Element Fund that is organized in the Cayman Islands), insurance premiums for directors' and officers' insurance, errors and omissions insurance and other similar policies, investment expenses such as interest and borrowing charges on margin accounts, borrowing charges on securities sold short, brokerage and transaction costs, commissions, clearing and settlement charges, fees and expenses of trade execution platforms, custodial fees, bank service fees, costs of leasing or acquiring membership to applicable exchanges, costs associated with establishing and maintaining counterparty trading relationships, and the fees and charges relating thereto, market data expenses, third-party research costs, legal (including, without limitation, legal expenses associated with regulatory inquiries regarding the Element Fund's investment activities or counterparty trading relationships), accounting, audit, tax and other professional fees and expenses, costs and expenses in connection with determining and calculating the net asset value of such Element Fund's shares or interests, costs of preparing contracts and trading agreements relating to the operation of the Element Fund or its investment activities, costs of preparing marketing materials, investor circulars and newsletters in relation to the Element Fund, organizational and formation costs and expenses for trading vehicles, travel expenses related to the foregoing (including research-related travel), and all other costs and expenses associated with the operation of the Element Fund.

The Element Funds are organized in a "master-feeder" structure, and each feeder fund, as a shareholder of the related master fund, bears a pro rata share of the expenses associated with such master fund, including the master fund's formation expenses.

Please refer to Item 12 of this Brochure for a discussion of Element's brokerage practices.

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**Item 6. Performance-Based Fees and Side-by-Side Management**

Currently, Element provides investment advisory services only to the Element Funds, all of which are subject to the performance allocations described in Item 5 above.

If Element advises other Client accounts in the future that are not subject to performance-based fees, this may create an incentive for Element to favor Client accounts for which Element (or an affiliate thereof) receives performance-based fees. In this event, Element will adopt policies and procedures designed to ensure that Element allocates investment opportunities among Clients in accordance with the investment objectives of such Clients and in a manner that it considers fair and equitable.

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**Item 7. Types of Clients**

Currently, Element provides investment advisory services only to the Element Funds. Investors in the Element Funds are principally institutional investors, including, but not limited to, corporate and public pension funds, sovereign wealth funds, endowments, foundations, family offices and fund of funds. The Element Funds are subject to a minimum initial investment requirement of \$50 million, however, Element is authorized to waive, reduce, or modify such minimum investment requirement, subject to certain limitations in accordance with applicable law or regulation.



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

The investment strategies, methods of analysis, and material risks applicable to each Element Fund are set forth in detail in the respective Element Fund's offering memorandum. A summary of those investment strategies, methods of analysis, and material risks is provided below. Note that each Element Fund that is a feeder fund invests all of its assets through the related master fund.

Element utilizes a variety of investment strategies and methods of analysis to manage the assets of the Element Funds. Element uses its proprietary base of technology and risk management systems together with a specialized product expertise, holistic portfolio risk allocation and innovative approach to trade construction to access the volatility markets and express macro views.

The Element Funds principally invest in fixed income, foreign exchange, and equity markets to express global macro views. Element employs a multi-process investment approach that includes macro fundamental, systematic and relative value analysis, generally combining these processes within a given investment strategy. The inputs to each analytical process are comprised of both qualitative and quantitative methods. Element utilizes its proprietary base of technology, disciplined risk management, innovative trade structuring and advanced portfolio construction techniques to implement the Element Funds' investment strategies. The Element Funds invest primarily in G-12 sovereign debt securities, G-12 interest rate swaps, G-12 interest rate futures, U.S. agency mortgage-backed securities, G-20 foreign exchange, G-20 equity securities, and all listed and over-the-counter derivatives in respect of the foregoing. The Element Funds may also invest in, among other financial instruments: (i) commercial mortgage-backed securities; (ii) asset-backed securities; (iii) non-U.S. agency mortgage-backed securities and non-U.S. agency debentures; (iv) non-G-12 sovereign debt securities, interest rate swaps and interest rate futures; (v) non-G-20 foreign exchange; (vi) commodities; (vii) securities issued by supranational organizations or public international bodies, governments and their agencies and instrumentalities, municipal or local authorities and their agencies and instrumentalities; (viii) other debt and equity or equity-related securities (including, but not limited to, notes, commercial paper and structured or hybrid instruments) and participation interests issued by corporations, partnerships, trusts and other issuers; (ix) credit default swaps and other credit linked instruments; and (x) all listed and over-the-counter derivatives in respect of the foregoing. The Element Funds may also enter into repurchase and reverse-repurchase agreements, master note purchase agreements, forward commitment and delayed delivery transactions, dollar rolls of mortgage backed securities, stock-lending agreements, short-term money market investment funds, and such other types of agreements or transactions as Element regards as appropriate for the Element Funds having regard to its investment objectives and policies. The investment strategies utilized by the Element Funds to achieve their investment objective may vary over time based on Element's changing views of then current and future market conditions.

There can be no assurance that the Element Funds will realize its investment objective.

### **SUMMARY OF MATERIAL RISKS**

FOR A COMPLETE DISCUSSION OF RISKS ASSOCIATED WITH ANY ELEMENT FUND, ELIGIBLE INVESTORS SHOULD REFER TO THE OFFERING MEMORANDUM FOR SUCH ELEMENT FUND.

#### **GENERAL**

Investors in the Element Funds should understand that all investments involve risk and that there can be no guarantee against loss resulting from an investment in the Element Funds nor can there be any assurance that the Element Funds' investment objective will be attained. As with any investment, the value of an investment in the Element Funds may decrease as well as increase, depending on a variety of factors that may affect the value of the Element Funds' portfolio of assets, including general economic conditions, market factors, currency exchange rates and investment decisions proven to be incorrect. It should be

noted that the Element Funds will not be liable to any investor for special, indirect, or consequential damage or for lost profits or loss of business.

The risks of an investment in the Element Funds arise both from the risks associated with the Element Funds' investments and from the risks relating to the Element Funds' ability to achieve its investment objectives. Investment in the Element Funds carries a very high degree of risk including, but not limited to, the risks referred to below. This list does not purport to be exhaustive and potential investors should review the offering memorandum of the applicable Element Fund carefully and in its entirety and consult with their professional advisors before making an investment.

## **NO GUARANTEE OF PERFORMANCE**

The past investment performance of the Element Funds and Element is not necessarily indicative of the future results of an investment in the Element Funds. There can be no assurance that the Element Funds will achieve its investment objective.

## **INVESTMENT AND TRADING RISKS**

The Element Funds invest in and actively trade over-the-counter ("OTC") derivatives, options, futures, forwards, currencies, equities, swaps and other instruments using strategies and investment techniques with significant risk characteristics, including risks arising from the volatility of markets, the risks of borrowings and short sales, the leverage associated with trading in these markets and in derivatives markets, the potential illiquidity of derivative instruments, the risk of loss from counterparty defaults and the risk of borrowing to meet redemption requests. No guarantee or representation is made that any Element Fund's program will be successful, that the various investment strategies utilized will have low correlation with each other or that any Element Fund's returns will exhibit low correlation to any other investment portfolio. Each Element Fund's investment program may utilize such investment techniques as option transactions, margin transactions, short sales, leverage, derivatives trading and futures and forward contracts, which practices involve substantial volatility and can, in certain circumstances, substantially increase the adverse impact to which the Element Fund's investment portfolio may be subject. All investments made by an Element Fund risk the loss of capital. No guarantee or representation is made that any Element Fund's program will be successful, and investment results may vary substantially over time.

The markets for derivatives and other financial instruments are speculative. Prices for the Element Funds' investments can be highly volatile and market movements are difficult to predict. Supply and demand for such instruments change rapidly and are affected by a variety of factors, including interest rates, commodity prices and general trends in the overall economy or particular industrial or other economic sectors. A variety of factors, which are inherently difficult to predict, such as interest rates, earnings, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies, can have significant effects on such markets. Each Element Fund may have only limited ability to vary its investment portfolio in response to changing economic, financial and investment conditions. No assurance can be given as to when or whether adverse events might occur which could cause significant and immediate loss in the value of the Element Fund's portfolio. Even in the absence of such events, investing in and trading commodity derivatives and other financial instruments can quickly lead to large losses.

## **LEVERAGE**

The Element Funds are not subject to any limits on the incurrence of leverage. Leverage may take the form of loans for borrowed money, trading on margin, derivative investments that are inherently leveraged, including among others, forward contracts, futures contracts, swaps and repurchase agreements, and other forms of direct and indirect borrowings, increasing the volatility of the Element Funds' investments. The use of leverage by the Element Funds can increase the adverse impact to which the Element Funds' investment portfolios may be subject.

For example, should the securities pledged to brokers to secure an Element Fund's margin accounts decline in value, the Element Fund could be subject to a "margin call," pursuant to which the Element Fund must either deposit additional funds with the broker, or suffer mandatory liquidation of the pledged securities to compensate for the decline in value. In addition, the costs of leverage (including interest on borrowings and other expenses that may be associated with borrowings) may be substantial and may affect the performance of the Element Funds.

To the extent the Element Funds utilize financing to leverage their positions, such financing arrangements will typically be extended by clearing brokers and/or repo dealers in the markets in which the Element Funds invest. Though Element attempts to negotiate favorable terms for these financing arrangements, its ability to do so may be limited. These financing arrangements may, from time to time, include margin lock-up agreements or term commitments to secure financing for the Element Funds on set terms for a specified period of time. In the absence, or after the expiration, of these financing arrangements, the Element Funds could be subject to changes in the value that a broker-dealer ascribes to a given position, the amount of margin required to support such position, the borrowing rate to finance such position, and such broker-dealer's willingness to continue to provide such credit to the Element Funds. Although the Element Funds generally maintain a significant amount of liquid reserves, in the event they have no alternative credit facility that could be used to finance their positions in the absence of financing from broker-dealers, they could be forced to liquidate a substantial portion of their positions to meet their obligations under existing financing arrangements. Further, clearing brokers generally have substantial discretion in valuing positions and collateral, setting haircuts and margin. The forced liquidation of all or a portion of the Element Funds' investments at distressed prices could result in significant losses.

Additionally, in an unsettled credit environment, Element may find it difficult or impossible to obtain leverage for the Element Funds. Since leveraging its assets is an integral part of the investment strategy of the Element Funds, in such event the Element Funds could find it difficult to implement their strategies.

## **DERIVATIVE CONTRACTS**

Element makes use of fixed income, interest rate, mortgage, equity, foreign exchange, and other derivatives in each Element Fund's investment program. Depending on their structure, swap agreements may increase or decrease an Element Fund's exposure to long-term or short-term interest rates in the United States or abroad, foreign currency and equity values or other reference assets. Swap agreements will tend to shift an Element Fund's investment exposure from one type of investment to another. Depending on how they are used, swap agreements may increase or decrease the overall volatility of an Element Fund's portfolio. Certain swaps, options and other derivative instruments may be subject to various types of risks, including market risk, liquidity risk, counterparty credit risk, legal risk and operational risk. In addition, swaps and other derivatives can involve significant economic leverage and may, in some cases, involve significant risks of loss.

In general, there is less government regulation and supervision of transactions in the OTC markets than of transactions entered into on organized exchanges. In addition, many of the protections afforded to participants on some organized exchanges, such as the performance guarantee of an exchange clearing house, are generally not available in connection with OTC transactions. OTC transactions are specifically tailored to the needs of the counterparties and enable the counterparties to structure precisely the date, market level and amount of a given position. The counterparty for these agreements will be the specific firm involved in the transaction rather than a recognized exchange and accordingly the bankruptcy or default of a counterparty with which an Element Fund trades OTC contracts could result in substantial losses to the Element Fund. An Element Fund will only enter into transactions with counterparties which it believes to be creditworthy, and may reduce the exposure incurred in connection with such transactions through the receipt of letters of credit or collateral from certain counterparties. Regardless of the measures an Element Fund may implement to reduce counterparty credit risk, however, there can be no assurance that a counterparty's creditworthiness will not decline or that a counterparty will not default or that an Element Fund will not sustain losses on the transactions as a result.

While Element believes that it will be able to establish the necessary counterparty business relationships to permit the Element Funds to effect transactions in the OTC currency market and other counterparty markets, including the swaps market, there can be no assurance that it will be able to do so. Moreover, the counterparties with which the Element Funds expect to establish such relationships will not be obligated to maintain the credit lines extended to the Element Funds, and such counterparties could decide to reduce or terminate such credit lines at their discretion. In addition, from time to time, the counterparties with which the Element Funds effect transactions might cease making markets or quoting prices in certain of the instruments. In such instances, an Element Fund might be unable to enter into a desired transaction, or to enter into any offsetting transaction with respect to an open position, which might adversely affect its performance.

The U.S. Commodity Futures Trading Commission ("CFTC") requires certain derivative transactions that were previously executed on a bi-lateral basis in the OTC markets to be executed in regulated markets and submitted for clearing to regulated clearinghouses. Such requirements may make it more difficult and costly for the Element Funds to enter into highly tailored or customized transactions. They may also render certain strategies in which the Element Funds might otherwise engage impossible or so costly that they will no longer be economical to implement.

### **CREDIT DEFAULT SWAPS**

The Element Funds may utilize credit default swaps (including credit default swaps on sovereign debt and credit default index swaps). The buyer of a credit default contract is obligated to pay the seller either a lump sum payment or a periodic stream of payments over the term of the contract in return for a contingent payment upon the occurrence of a credit event with respect to an underlying reference obligation or entity. Generally, a credit event means bankruptcy, failure to pay, cross default/acceleration, obligation acceleration, repudiation/moratorium, restructuring, or rating decline. The Element Funds may be either the buyer or seller in a transaction. If the Element Funds are a buyer and no credit event occurs, the Element Funds will have made fixed payments and received nothing. However, if a credit event occurs, the Element Funds, as buyers, typically will receive full notional value for a reference obligation that may have little or no value. As sellers, the Element Funds receive a fixed rate of income throughout the term of the contract, provided that no credit event occurs. If a credit event occurs, the seller may pay the buyer the full notional value of the reference obligation which may have little or no value.

In addition to general market risks, credit default swaps are subject to liquidity risk and credit risk. Credit default swap contracts are generally not traded on exchanges and are not comprehensively regulated, and as a consequence investors in such contracts do not benefit from regulatory protections. The selling of credit default swaps involves greater risks than if the Element Funds had invested in the reference obligation directly. If a credit event were to occur, the value of the reference obligation received by the seller, coupled with the periodic payments previously received, may be less than the full notional value it pays to the buyer, resulting in a loss of value. The buyer of credit default swaps will incur a loss if the seller fails to perform on its obligation should a credit event occur. In certain circumstances, the buyer can receive the notional value of a credit default swap only by delivering a physical security to the seller, and is at risk if a deliverable security is unavailable or illiquid.

### **TRADING ON NON-U.S. EXCHANGES**

Element engages in trading on exchanges outside the United States. Trading on such exchanges is not regulated by any United States governmental agency and may involve certain risks not applicable to trading on United States exchanges. Such trading may be subject to whatever regulatory provisions are applicable to transactions effected outside the United States, whether on foreign exchanges or otherwise. Trading on foreign exchanges involves the additional risks of expropriation, burdensome or confiscatory taxation, moratoriums, and investment controls or political or diplomatic events which might adversely affect Element's trading activities. Engaging in trading on foreign exchanges is also subject to the risk of changes in the exchange rate between United States dollars and the currencies in which contracts traded on such exchanges are settled.

## **NON-US GOVERNMENT SECURITIES**

Investing in securities of non-U.S. governments that are generally denominated in non-U.S. currencies involve certain risks not typically associated with investing in the securities issued by the U.S. Government. Such risks may include: default by the issuing government; possibility of debt restructuring; changes in exchange rates and exchange control regulations; political and social instability; political risk; imposition of foreign taxes; less liquid markets; limited availability of information; higher transaction costs; and greater price volatility.

## **OPTIONS**

The Element Funds utilize options as part of their investment programs. There are risks associated with the sale and purchase of call options. The seller (writer) of a covered call option (i.e., the writer holds the underlying security) assumes the risk of a decline in the market price of the underlying security below the purchase price of the underlying security less the premium received, and gives up the opportunity for gain on the underlying security above the exercise price of the option. The seller of an uncovered call option assumes the risk of a theoretically unlimited increase in the market price of the underlying security above the exercise price of the option. The buyer of a call option assumes the risk of losing his entire investment in the call option. If the buyer of the call sells short the underlying security, the loss on the call will be offset in whole or in part by any gain on the short sale of the underlying security.

There are risks associated with the sale and purchase of put options. The seller (writer) of a covered put option (i.e., the writer has a short position in the underlying security) assumes the risk of an increase in the market price of the underlying security above the sales price (in establishing the short position) of the underlying security plus the premium received, and gives up the opportunity for gain on the underlying security below the exercise price of the option. The seller of an uncovered put option assumes the risk of a decline in the market price of the underlying security below the exercise price of the option. The buyer of a put option assumes the risk of losing his entire investment in the put option. If the buyer of the put holds the underlying security, the loss on the put will be offset in whole or in part by any gain on the underlying security.

## **FUTURES**

The Element Funds utilize futures as part of their investment programs. Futures positions may be illiquid because certain futures exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as "daily price fluctuation limits" or "daily limits." Under such daily limits, during a single trading day, no trades may be executed at prices beyond the daily limits. Once the price of a particular futures contract has increased or decreased by an amount equal to the daily limit, positions in that contract can neither be taken nor liquidated unless traders are willing to effect trades at or within the limit. This constraint could prevent the Element Funds from promptly liquidating unfavorable positions and subject the Element Funds to losses. In addition, the Commodity Futures Trading Commission and various exchanges impose speculative position limits on the number of positions that the Element Funds may indirectly hold or control on particular commodities.

In the U.S. futures markets, margin deposits typically range between 1% and 15% of the value of the futures contracts purchased or sold. In the forward, currency and certain other derivative markets, margin deposits may be even lower or may not be required at all. Such low margin deposits are indicative of the fact that any trading in these markets typically is accompanied by a high degree of leverage. Low margin deposits mean that a relatively small adverse price movement in a futures or forward contract may result in immediate and substantial losses to the investor. Thus, like other leveraged investments, any purchase or sale of a futures, forward or other futures contract may result in losses in excess of the amount invested.

## **FORWARD CONTRACTS**

Element enters into forward contracts on behalf of the Element Funds that are not traded on exchanges and are generally not comprehensively regulated. There are no limitations on daily price moves of forward contracts. Banks and other dealers with whom the Element Funds may maintain accounts may require the Element Funds to deposit margin with respect to such trading, although margin requirements are often minimal or non-existent. The Element Funds' counterparties are not required to continue to make markets in such contracts. There have been periods during which certain counterparties have refused to continue to quote prices for forward contracts or have quoted prices with an unusually wide spread (the price at which the counterparty is prepared to buy and that at which it is prepared to sell). Arrangements to trade forward contracts may be made with only one or a few counterparties, and liquidity problems therefore might be greater than if such arrangements were made with numerous counterparties. The imposition of credit controls by governmental authorities might limit such forward trading to less than that which Element would otherwise recommend, to the possible detriment of the Element Funds.

## **MORTGAGE-BACKED AND ASSET-BACKED SECURITIES**

The Element Funds invest in mortgage-backed securities and other asset-backed securities. Payments of principal and interest on the underlying loans are passed through to the holders of such securities over the lives of the securities. Most mortgage-backed and asset-backed securities are subject to early repayment of principal, which can be expected to accelerate during periods of declining interest rates. For certain types of asset pools, such as collateralized mortgage obligations, prepayments may be allocated to one tranche of securities ahead of other tranches, in order to reduce the risk of prepayment for the other tranches. Such repayments can usually be reinvested only at the lower yields than prevailing in the market. Therefore, during periods of declining interest rates, these securities are less likely than other fixed-income obligations to appreciate in value and less effective at locking in a particular yield. On the other hand, mortgage-backed and asset-backed securities are subject to substantially the same risk of depreciation during periods of rising interest rates as other fixed-income securities. Asset-backed securities also present certain credit risks that are not presented by mortgage-backed securities due to differences in the nature of the underlying collateral. Specifically, such collateral may be composed of lease obligations or unsecured loans or loans secured by assets that depreciate more rapidly than real estate. There is the possibility that, in some cases, recoveries on repossessed collateral may not be available to support payments on these securities.

## **DERIVATIVE MORTGAGE-BACKED SECURITIES**

The Element Funds invest in derivative mortgage-backed securities such as principal-only ("POs") and interest only ("IOs") or inverse floating-rate securities, which are more exposed to mortgage repayments, and which therefore generally involve a greater amount of risk. Small changes in repayments can significantly impact the cash flow and the market value of these securities. The risk of faster than anticipated prepayments can significantly impact the cash flow and the market value of these securities. The risk of faster than anticipated prepayments generally adversely affects IOs, super floaters and premium priced mortgage-backed securities. The risk of slower than anticipated prepayments generally adversely affects POs, floating-rate securities subject to interest rate caps, support tranches and discount priced mortgage-backed securities. In addition, particular derivative securities may be leveraged such that their exposure (i.e., price sensitivity) to interest rate and/or prepayment risk is magnified.

## **NON-U.S. DOLLAR CURRENCY EXPOSURE**

Element may invest a portion of an Element Fund's assets in non-U.S. currencies, or in instruments denominated in non-U.S. currencies, the prices of which will be determined with reference to currencies other than the U.S. Dollar. Element may seek to hedge the non-U.S. Dollar currency exposure of an Element Fund's portfolio by investing in currencies, currency futures contracts, and options on currency fixtures contracts, forward currency contracts, swaps, swaptions, or any combination thereof, but there can be no assurance that such hedging transactions will be effective. To the extent the hedging transactions are partly or entirely unsuccessful, or if Element chooses not to hedge some or all of a Element Fund's exposure to non-U.S. Dollar currencies, the value of the assets of the Element Fund will fluctuate with U.S. Dollar

exchange rates and with price changes of the investments of the Element Fund in the various local markets and currencies. In addition, Element's hedging techniques entail additional risks. Foreign exchange rates are highly volatile and subject to event risks, as the political situation with regard to the relevant foreign government may itself be volatile. Moreover, if the cash flow of the assets is contingent, it may be difficult to quantify the attendant cross-currency risk, compounding the risk of changes in underlying currencies by the other risks in the portfolio. Correlations between these risks are difficult to quantify and, therefore, difficult to hedge. An inaccurate estimation of the correlation may lead to a faulty hedge and a consequent loss in the portfolio. In highly volatile markets, predictions of correlation based on historical data can diverge dramatically from observed market moves. Swaps, "synthetic" or derivative instruments, certain types of options and other customized financial instruments are subject to the risk of non-performance by the other party to the contract. As a result, a default on the instrument may deprive an Element Fund of unrealized profits, or may force the Element Fund to cover its commitments for purchase or resale of the underlying currency at the then current market price.

## **SHORT SELLING**

The Element Funds engage in short sales, which are transactions in which the Element Fund sells a security or other instrument it does not own in anticipation of a decline in the market value of that security or other instrument or as a hedge. To complete a short sale transaction, the Element Fund must borrow the security to make delivery to the buyer. The Element Fund is then obligated to replace the borrowed security, which generally entails purchasing it at the market price at the time of replacement. Until the security is replaced, the Element Fund is required to pay to the lender amounts equal to any dividends or interest which accrue or are deemed to accrue during the period of the loan. The Element Fund may also be required to pay a premium to borrow the security. In addition to direct short sales, the Element Funds may also enter into a short position through a forward commitment or a short derivative position through a futures contract or swap agreement.

Short sales are subject to special risks. Short sales can in certain circumstances, increase the impact of adverse market movements on the value of the short position. A short sale involves the risk of a theoretically unlimited increase in the market price of the security or other instrument represented by the short position, which could result in an inability of the Element Fund to cover the short position and a theoretically unlimited loss. In addition, there can be no assurance that securities necessary to cover a short position will be available for purchase. There is also the risk that the securities or other instruments borrowed by the Element Funds in connection with a short sale would need to be returned to the lender on short notice or at the most disadvantageous time. Finally, from time to time, regulatory or legislative action taken by U.S. or non-U.S. regulators may restrict the ability of the Element Funds to engage in short selling.

## **EQUITY SECURITIES**

Equity securities represent an ownership interest, or the right to acquire an ownership interest, in an issuer. The values of equity securities may decline due to general market conditions which are not specifically related to a particular company, such as real or perceived adverse domestic or international economic or political conditions, changes in the general outlook for corporate earnings, changes in interest or currency rates or adverse investor sentiment generally. Such values may also decline due to factors which affect a particular industry or industries, such as labor shortages or increased production costs and competitive conditions within an industry. Equity securities generally have greater price volatility than fixed income securities. Each of the factors affecting the value of equity securities are inherently difficult to predict.

## **EXCHANGE-TRADED FUNDS AND OTHER EQUITY INDEX SECURITIES**

The Element Funds may invest in exchange-traded funds (ETFs) or other equity index securities or listed and over-the-counter derivatives in respect of the foregoing. Such investments represent interests in portfolios of selected equities, the value of which fluctuates in response to issuer, political, market and economic developments. ETFs and other similar instruments involve risks generally associated with investments in a broadly based portfolio of common stocks or commodities, including the risk that the general level of stock prices or commodity prices, or that the prices of stocks within a particular sector, may

increase or decrease, thereby affecting the value of the shares of the ETF or other instruments. In addition, the market price of such investments may not be equivalent to the pro rata value of the underlying portfolio of securities.

## **TRADING IN VIRTUAL CURRENCY DERIVATIVES**

The Element Funds may trade certain futures contracts based on virtual currencies. As required by the National Futures Association Interpretive Notice 9073, please note that virtual currency derivatives have a number of features that may pose risks to the Element Funds. For example, virtual currency derivatives may experience significant price volatility and the initial margin for virtual currency derivatives may be set as a percentage of the value of a particular contract, which means that margin requirements for long positions can increase if the price of the contract rises. In addition, some FCMs may pose restrictions on customer trading activity in virtual currency derivatives, such as requiring additional margin, imposing position limits, prohibiting naked shorting or prohibiting give-in transactions. The rules of certain designated contract markets impose trading halts that may restrict a market participant's ability to exit a position during a period of high volatility. These risks relating to virtual currency derivatives may adversely impact the Element Funds or otherwise preclude trading opportunities that would be beneficial to the Element Funds.

## **VOLATILITY**

The prices of commodities contracts and derivative instruments, including futures and option prices and equity securities, can be highly volatile. Price movements of forward, futures and other derivative contracts in which the assets of the Element Funds may be invested are influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies. In addition, governments from time to time intervene, directly and by regulation, in certain markets, particularly those in currencies, securities, futures and options. Such intervention often is intended directly to influence prices and may, together with other factors, cause all of such markets to move rapidly in the same direction because of, among other things, interest rate fluctuations.

## **CONCENTRATION OF INVESTMENTS**

The Element Funds may hold a few, relatively large positions in relation to the capital of the Element Funds. Consequently, a loss in any such position could result in a proportionately higher reduction in the net asset value of the Element Fund than if the Element Fund's capital had been spread among a wider number of instruments. Unlike many other investment companies which, as a matter of investment policy, diversify portfolio holdings so that no more than a fixed percentage of their assets are invested in any one issuer or industry or group of industries, no Element Fund has fixed guidelines for diversification. No Element Fund applies, or is required to apply, diversification rules over and above the rules described in such Element Fund's offering memorandum. Since a relatively high percentage of each Element Fund's assets may be invested in a limited number of instruments, such Element Fund's portfolio may be more susceptible to any single economic, political or regulatory occurrence, and may be more volatile, than the portfolio of a diversified investment company.

## **RISKS RELATED TO DEVELOPMENT AND USE OF TRADING SYSTEMS**

Many of the investment strategies that Element deploys on behalf of the Element Funds are highly complex. The successful deployment of a particular investment strategy may involve sophisticated mathematical calculations and complex computer programs ("Trading Systems") to produce investment models or trading signals. The use of these Trading Systems involves special risks, both in their development and implementation. The accuracy of the investment models and trading signals produced by the Trading Systems is dependent on a number of factors, including without limitation the analytical and mathematical foundation of the Trading Systems, the accurate incorporation of such principles in a complex technical and coding environment, the quality of the data introduced into the Trading Systems and the successful deployment of the Trading Systems' output into the investment process. Although Element intends to use good faith efforts to carry out the development and implementation of its Trading Systems correctly and to



use them effectively, there can be no assurance that it will successfully do so. Errors may occur in designing, writing, testing, monitoring, and/or implementing such Trading Systems, including errors in the manner in which such Trading Systems function together. Any such errors may be difficult to detect, may not be detected for a significant period of time, or may never be detected. Even if an error is detected, Element may or may not be able to correct the error before material losses are incurred, may not be successful in correcting the error, or may determine not to correct the error at all. The degradation or impact caused by errors may be compounded over time. Such errors could, at any time, have a material adverse effect on the performance of the Element Funds. Such errors may result in, among other things, the execution of unanticipated trades, the failure to execute anticipated trades, the failure to properly gather and organize available data, and/or the failure to take certain hedging or risk reducing actions. These errors will generally be borne by the Element Funds. In addition, the effectiveness of such Trading Systems may diminish over time, including as a result of changes in the market and/or changes in the behavior of other market participants. The complexity of the components of the investment strategies deployed on behalf of the Element Funds that apply such Trading Systems, and the interactions among such components, may make it difficult or impossible to detect the source of any weakness or failure in such components and/or such Trading Systems before material losses are incurred. The Trading Systems Element deploys on behalf of the Element Funds are subject to inherent limitations and are susceptible to being improved upon as experience is gained, strategies are refined, and markets change. There can be no assurances that Element would be able to make any such improvements, and its inability or failure to do so could have a material adverse effect on the Element Funds. Moreover, most systematic models cannot fully match the complexity of the financial markets and therefore sudden unanticipated changes in underlying market conditions can significantly impact the performance of the Element Funds.

## **USE OF DISCRETION**

In implementing any trading strategies, Element will use discretion in executing trades, establishing, sizing and liquidating positions. Element will also exercise discretion more broadly in the management of the Element Funds including, without limitation, by determining which trading strategies should be employed on behalf of the Element Funds, allocating assets among trading strategies, adding and removing trading strategies, determining the Element Funds' leverage, hedging and other risk parameters, and determining how to comply with actions taken by regulatory or self-regulatory agencies or central banks. Such discretionary trading decisions or modifications require the exercise of judgment by Element. There can be no assurance that Element has or will correctly evaluate the nature and magnitude of the various factors that could affect the value of and return on the Element Funds' assets, and there is no guarantee that Element's discretionary decisions will improve performance or will be successful or will not have unintended or unforeseen consequences, and such decisions could also result in substantial losses to the Element Funds.

## **TECHNOLOGICAL DISRUPTIONS AND CYBERSECURITY RISK**

The successful implementation and ongoing management of the Element Funds' trading strategies depends on consistently functioning technology. Various other critical activities of Element, including the order input and execution management systems used by Element, could be severely compromised by unforeseeable software or hardware malfunction, power loss, software bugs and errors, breaches of cybersecurity, cyberattacks using malicious code such as "worms," viruses, or "system crashes," infiltration by unauthorized persons and security breaches, fire or water damage, or various other technological disruptions or events either within or beyond Element's control. Element will make efforts to protect against such events; however, there is no guarantee that such efforts will be successful in all instances. Software bugs and errors, in particular, and their ensuing risks are an inherent part of any technology-based analytics and trading strategies, as well as execution platforms and order management systems, and Element expects that it, or its agents or software providers, will not be able to identify, prevent or fix all harmful bugs or errors. Any event that interrupts Element's information technology and/or telecommunications infrastructure, including its cloud infrastructure services, could result in, among other things, the inability to establish, modify, liquidate, or monitor the Element Funds' investments and, for those and other reasons,

could have a material adverse effect on the operating results, financial condition, activities and prospects of the Element Funds.

Additionally, Element, the Element Funds and their service providers, including banks, broker dealers, custodians and their affiliates, may be subject to operational and information security risks resulting from cyber-attacks. Cyber-attacks include, among other behaviors, stealing or corrupting data maintained online or digitally, denial of service attacks on websites, the unauthorized release of confidential information, unauthorized asset transfers and various other forms of cybersecurity breaches. Cyber-attacks affecting Element, the Element Funds or their service providers may adversely impact the Element Funds. For instance, cyber-attacks may interfere with the processing or execution of Element Fund transactions, cause the release of confidential information, including private information about investors, subject Element, the Element Funds or their affiliates to regulatory fines or financial losses, or cause reputational damage. Additionally, cyber-attacks or security breaches (e.g., hacking or the unlawful withdrawal or transfer of funds), affecting any of the Element Funds' key service providers, such as Element, the fund administrator, banks, broker dealers, custodians or other counterparties holding assets of the Element Funds, may cause significant harm to the Element Funds, including the loss of capital. Similar types of cybersecurity risks are also present for issuers of securities in which the Element Funds may invest. These risks could result in material adverse consequences for such issuers, and may cause the Element Funds' investments in such issuers to lose value.

## **RELIANCE ON TECHNOLOGY**

Some of the investment activities and the investment strategies expected to be deployed by Element are dependent upon various computer and telecommunications technologies. Certain of these technologies are developed and maintained internally by Element, while others are provided by third-party vendors. The successful operation of such activities and strategies could be severely compromised by events such as system or component failure, telecommunications failure, power loss, unauthorized system access or use, computer viruses, fire or water damage or human errors. Any event that interrupts Element's computer and/or telecommunications operations could have a material adverse effect on the Element Funds.

## **TRADE ERRORS**

The Element Funds will bear any losses resulting from portfolio management, trading or administrative errors in connection with its investment activities, absent gross negligence, fraud or willful misconduct on the part of Element. Any gains or benefits that result from such errors would also accrue to the Element Funds. Trade errors can result from a variety of situations, including but not limited to when the wrong security or instrument is purchased or sold, or when the wrong quantity of a security or instrument is purchased or sold. Element does not consider programming issues, data input issues or technology issues to be trading errors unless erroneous human intervention in the execution of the trade is involved. In general, Element will not notify investors of the occurrence of any portfolio management, trading or administrative errors or the resolution thereof. Given the volume of transactions executed by Element on behalf of the Element Funds, investors should assume that any such errors will occur.

## **OFFSETTING TRANSACTIONS**

Portfolio managers employed by Element make independent trading decisions and as a result, may take positions that offset positions taken by other portfolio managers or other members of Element's portfolio team. Additionally, separate strategies employed by Element's portfolio team may similarly result in offsetting positions. Such offsetting positions will result in higher transaction costs for the Element Funds than would be the case if such positions were netted.

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**Item 9. Disciplinary Information**

On March 6, 2019, a Panel of the Business Conduct Committee of the Chicago Board of Trade ("CBOT") accepted an offer of settlement from Element in connection with a CBOT position limit breach. The CBOT Notice relating to this matter stated that on August 9 and 10, 2018, the Element Funds held a futures position in soybean oil contracts in excess of the CBOT single and all month limit. Upon discovery, the overage was promptly liquidated to bring the position into compliance with CBOT limits. As part of the settlement, Element agreed to pay: (i) a fine of \$15,000, and (ii) \$86,365.44 representing disgorgement of profits, while neither admitting nor denying any rule violation. Element paid these amounts on March 11, 2019. The Element Funds were not assessed any fine and did not make any disgorgement payment.

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

Element is registered with the CFTC as a commodity pool operator and is a member of National Futures Association (“NFA”). Certain of Element's employees are registered with the NFA as “associated persons” of Element.

Element Capital Holdings LLC, an affiliate of Element, serves as the managing member to certain Element Funds. In addition, Jeffrey M. Talpins, the principal owner of Element, serves as a director of certain Element Funds.

Element Capital Partners LLP, a Relying Adviser and affiliate of Element based in London, is Authorised and regulated by the UK's Financial Conduct Authority.

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

Element has adopted a code of ethics (the "Code of Ethics") pursuant to Rule 204A-1 under the Investment Advisers Act of 1940, as amended. The Code of Ethics highlights that Element and its supervised persons have a fiduciary duty to act in the best interest of Clients and must observe high standards of ethical conduct with respect to each Client.

The Code of Ethics contains policies and procedures that, among other things: (a) require all supervised persons to comply with applicable Federal securities laws; (b) prohibit supervised persons from trading on the basis of material non-public information; (c) place limitations and holding periods on personal securities transactions in reportable securities; (d) require supervised persons to pre-clear personal securities transactions in reportable securities; (e) require supervised persons to refrain from activities that may conflict with the interests of Clients; (f) restrict supervised persons' outside business activities; (g) impose limitations on the giving or receiving of gifts and entertainment from certain types of third parties; and (h) require supervised persons to certify their compliance with the Code of Ethics on at least an annual basis.

Subject to the restrictions set forth in the Code of Ethics, Element and its supervised persons and affiliates (i) may engage in, invest in, participate in or otherwise enter into other business ventures of any kind, nature or description, alone or with others, and (ii) may invest and trade for their own accounts, including in securities which are the same as or different from those traded or held by Clients, and as a result may from time to time take positions in their personal accounts that are the same as or opposite to the positions taken for Clients. Element monitors the personal trading accounts of its supervised persons on an ongoing basis to ensure that any conflicts of interest that may arise as a result of personal trading are resolved in accordance with the Code of Ethics.

Clients or prospective Clients may obtain a copy of the Code of Ethics by contacting Element's Chief Compliance Officer at the address or telephone number listed on the cover page of this Brochure.

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## Item 12. Brokerage Practices

Element considers a number of factors in selecting a broker-dealer to execute transactions (or series of transactions) and determining the reasonableness of the broker-dealer's compensation. Such factors include price (including intrinsic costs such as spreads and slippage), size or quantity of the instrument being bought or sold, the ability to effect the transactions, the brokers-dealer's facilities, reliability and financial responsibility, special execution capabilities, block trading and block positioning capabilities, willingness to execute related or unrelated difficult transactions in the future, efficiency of execution and error resolution, quotation services, the availability of securities to borrow for short trades, custody, recordkeeping and similar services, and any research or investment management-related services provided by such broker-dealer.

Element utilizes many brokerage services provided by brokers, dealers, and other market intermediaries ("Intermediaries"), including, but not limited to, traditional brokerage, direct market access and third-party algorithms. As such, Element, at times, exercises significant control over the brokerage process and, at other times, relies more heavily on such Intermediaries. In some cases, due to the nature of specific markets, the limited routes of market access and/or the limited counterparty availability for the Element Funds in certain geographical regions, Element expects to obtain exposure to certain instruments through a single swap-provider (or a very limited number of swap providers), subjecting the Element Funds to concentrated counterparty risk and limited execution options. Element has discretion as to how these exposures are acquired through an Intermediary. However, in certain cases market access and other capabilities may be limited to offerings provided by such Intermediary. Notwithstanding the foregoing, Element may, in its discretion, conduct the Element Funds' investment activities by entering into arrangements with other swap providers and/or directly on various listed exchanges.

In selecting a broker-dealer to execute transactions (or series of transactions) and determining the reasonableness of the broker-dealer's compensation, Element need not solicit competitive bids and does not have an obligation to seek the lowest available commission cost. Since it is not Element's practice to negotiate "execution only" commission rates, the Element Funds may therefore be deemed to be paying for research, brokerage or other services provided by the Intermediaries which are included in the commissions, mark-ups or other compensation received by the Intermediaries ("Commissions").

Consistent with seeking overall best execution, Element may also obtain research, brokerage and other services that would otherwise be Element Fund expenses provided by the Intermediary for Commissions paid in connection with the transaction. Additionally, Element may engage in transactions that involve increased transaction costs for the foregoing services with an Intermediary that also provides Element with the opportunity to participate, as appropriate, in securities offerings or privately negotiated securities transactions. Accordingly, the Element Funds may pay higher Commissions to Intermediaries that provide these services and benefits than the Element Funds would pay to other Intermediaries that do not provide these services and benefits based on Element's recognition of the value of the research, brokerage and other services that would otherwise be an expense of the Element Funds.

Element currently only uses Commissions to obtain research and brokerage services that constitute research and brokerage within the meaning of Section 28(e) of the Securities Exchange Act of 1934 ("Section 28(e)"). Research services within Section 28(e) may include, but are not limited to, research reports (including market research); certain financial newsletters and trade journals; software providing analysis of securities portfolios; corporate governance research and rating services; attendance at certain seminars and conferences; discussions with research analysts; meetings with corporate executives; consultants' advice on portfolio strategy; data services (including services providing market data, company financial data and economic data); advice from broker-dealers on order execution; and certain proxy services. Brokerage services within Section 28(e) may include, but are not limited to, services related to the execution, clearing and settlement of securities transactions and functions incidental thereto (i.e., connectivity services between an adviser and a broker-dealer and other relevant parties such as custodians); trading software operated by a broker-dealer to route orders; software that provides trade analytics and trading strategies; software used to transmit orders; clearance and settlement in connection

with a trade; electronic communication of allocation instructions; routing settlement instructions; post trade matching of trade information; and services required by the SEC or a self-regulatory organization such as comparison services, electronic confirms or trade affirmations.

Element's Best Execution Committee periodically reviews and evaluates Element's brokerage practices to determine in good faith whether, with respect to any research or other products or services received from an Intermediary, the Commissions used to obtain those products and services were reasonable in relation to the value of the brokerage, research or other products or services provided by the Intermediary.

The use of Client Commissions (or markups or markdowns) to obtain research and brokerage products and services raises conflicts of interest. For example, Element will not have to pay for the products and services itself. This creates an incentive for Element to select or recommend an Intermediary based on its interest in receiving those products and services.

Element and its affiliates and employees may have other business arrangements with Intermediaries used to execute transactions for the Clients. Intermediaries and their affiliates may invest in the Element Funds, and may provide financing or other services to Element, its affiliates and/or the Clients. Subject to compliance with applicable law and Element's obligation to seek best execution, Element may also use an Intermediary that has referred investors to Element to execute or clear transactions on behalf of the Clients or as counterparty to transactions for the Clients. Intermediaries and their employees may offer gifts to employees of Element, and may invite employees of Element to entertainment and social events. In no event will Element, on behalf of a Client, select an Intermediary or cause the Client to pay a higher Commission than would otherwise be paid because of such factors.

Currently, all the Element Funds are organized in one "master-feeder" structure and, therefore, only one Element Fund (i.e., the master fund) makes portfolio investments. Accordingly, Element does not aggregate purchases or sales of securities among multiple Clients. If Element advises additional Clients in the future, Element will adopt policies and procedures regarding trade aggregation and allocation. Generally, such policies and procedures will provide that Element will aggregate trades in accordance with its best execution obligations and allocate investment opportunities among Clients in accordance with the investment objectives of such Clients and in a manner that it considers fair and equitable.

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**Item 13. Review of Accounts**

Element provides direct regular management of the Element Funds' accounts under the supervision of its Chief Investment Officer. On at least a weekly basis, Element conducts a portfolio review involving the Chief Investment Officer, Chief Risk Officer, and other members of Element's investment staff. The portfolio review typically covers the recent performance and portfolio positions of the Element Funds, current market conditions, events and expectations, and various risk and portfolio management considerations. In addition, Element's Risk Committee meets to conduct risk reviews on a monthly basis and at any time in response to significant portfolio drawdown triggers or upon the request of senior management.

On a monthly basis, Element generally provides each Element Fund investor with the following written reports: (i) mid-month and month-end performance estimates, (ii) a performance summary, (iii) a letter containing commentary on macro policy, economic or market topics, and (iv) a report of certain risk metrics. Each Element Fund investor also receives an unaudited account statement from the fund administrator, on a monthly basis. Each Element Fund distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all investors in such Element Fund within 120 days of the end of its fiscal year.



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

Element does not currently compensate any third-party for Client or investor referrals or solicitations.

Element may participate in capital introduction programs or events provided or hosted by third-party financial institutions. While such third-party financial institutions are not compensated by, nor act as agent on behalf of, Element, such third-party financial institutions may be, or may be affiliated with, broker-dealers through whom Element executes or clears transactions on behalf of Clients. Please see Item 12 above for further information on Element's brokerage practices, including the factors that Element takes into account in selecting broker-dealers.

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**Item 15. Custody**

Client assets are generally held in custody by qualified custodians that are unaffiliated with Element. However, in its capacity as investment manager of the Element Funds and/or because its related person, Element Capital Holdings LLC, serves as managing member to one of the Element Funds, Element (or its related person) may be deemed to have custody of certain Element Fund assets within the meaning of Rule 206(4)-2 of the Investment Advisers Act of 1940, as amended. Each Element Fund (i) is audited annually by an independent public accountant that is registered with, and subject to regular inspection by, the Public Company Accounting Oversight Board and (ii) distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all investors in such Element Fund within 120 days of the end of its fiscal year.

Investors who have not received audited financial statements in a timely manner should contact Element immediately.

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**Item 16. Investment Discretion**

Pursuant to the investment management agreements with the Element Funds, Element has discretionary authority to manage the assets of the Element Funds. There are no limitations placed on this authority.

Pursuant to the terms of the governing documents of each Element Fund, Element and its affiliates generally will not be liable to such Element Fund or its investors for the consequences of their conduct, and will be indemnified by the Element Fund against any losses they may incur, in the absence of fraud, willful misconduct or gross negligence. As a result of these provisions, the Element Fund (and not Element or its affiliates) will be responsible for any losses from trading errors and similar human errors, absent fraud, willful misconduct or gross negligence.

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**Item 17. Voting Client Securities**

Element has been delegated the authority and right to vote proxies received by the Element Funds for any investments that may have attached voting rights.

In voting proxies, Element utilizes the services of a third-party proxy agent that votes in favor of routine corporate housekeeping proposals, including election of directors (where no corporate governance issues are implicated), selection of auditors and increases in or reclassification in common stock.

If Element determines that the proposed vote by the third-party proxy agent is not in the best interest of the Element Funds, Element will not utilize the third-party proxy agent for such proxy and will instead vote such proxy in the manner that it determines is in the best interest of the Element Funds.

If a proxy vote creates a material conflict between the interests of Element or its supervised persons and the interests of the Element Funds, Element will resolve the conflict before voting the proxies. Element's proxy voting policy includes guidelines for Element's Chief Compliance Officer to follow to ensure any material conflict of interest is resolved in the best interests of the Element Funds. Generally, the Element Funds cannot direct how Element votes proxies in a particular situation.

In some cases, Element may determine that it is in the best interest of the Element Funds to refrain from voting a proxy (e.g., if the cost of voting exceeds the expected value of the vote or where voting would preclude the Element Funds from selling the security for a specified time period).

Clients may obtain a copy of Element's proxy voting policies and procedures and/or a record of proxy votes cast since the effective date of Element's registration as an investment adviser with the SEC by contacting Element's Chief Compliance Officer at the address or telephone number listed on the cover page of this Brochure.

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**Item 18. Financial Information**

This Item is not applicable.

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**Item 19. Requirements for State-Registered Advisers**

This Item is not applicable.