



Principal Office:

225 W. Wacker Drive – Suite 2100 | Chicago | Illinois | 60606

Branch Offices:

104 Tiburon Boulevard – Suite 200 | Mill Valley | California | 94941  
2010 Crow Canyon Place – Suite 100 | San Ramon | California | 94583  
9602 Coldwater Road – Suite 206 | Fort Wayne | Indiana | 46825  
16185 Los Gatos Boulevard – Suite 205 | Los Gatos | California | 95032  
3333 Richmond Road – Suite 480 | Beachwood | Ohio | 44122

**January 9, 2020**

**ADV Part 2A:  
FIRM BROCHURE**

This brochure (the “Brochure”) provides information about the qualifications and business practices of Vivaldi Capital Management, LLC (“VCM”) and certain of its personnel. VCM is an investment adviser registered with the United States Securities and Exchange Commission (the “SEC”). Registration with the SEC or any state securities authority does not imply a certain level of skill or training. The information in this brochure has not been approved or verified by the SEC or by any state securities authority.

If you have any questions about the contents of this brochure, please contact us at 312-248-8300 or [info@vivaldicap.com](mailto:info@vivaldicap.com). Additional information about VCM is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## **Material Changes**

The following is a summary of material changes from VCM's last Brochure, dated July 1, 2019:

- Advisory Business - This section has been updated to include a new VCM private fund.
- Fees and Compensation – This section has been updated to describe our revised billing procedures.
- Other Financial Industry Activities & Affiliations – This section has been updated to reflect changes in funds managed by an affiliated investment advisor and describe a recent joint venture.

We will ensure that you receive a summary of any material changes to this and any subsequently issued Brochure within one hundred and twenty (120) days of the close of our fiscal year-end. We may provide other disclosure information about material changes to our business, products, services or personnel as necessary.

You may obtain a copy of the Brochure at any time, without charge, by contacting VCM at 312-248-8300. The Firm's Brochure is also available free of charge on the SEC's Investment Adviser Public Disclosure web site ([www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov)).

## Table of Contents

ADV Part 2A: FIRM BROCHURE .....	1
Material Changes Summary .....	2
Table of Contents.....	3
Advisory Business.....	4
Fees & Compensation .....	6
Performance Based Fees & Side by Side Management .....	9
Investment Strategies, Methods of Analysis & Risk of Loss .....	10
Disciplinary Information.....	14
Other Financial Industry Activities & Affiliations.....	14
Code of Ethics, Interest in Client Transactions & Personal Trading .....	15
Brokerage Practices .....	17
Review of Accounts .....	19
Client Referrals & Other Compensation.....	20
Custody.....	20
Investment Discretion.....	21
Voting Client Securities.....	21
Financial Information.....	22

## **Advisory Business**

### **Firm Overview**

Vivaldi Capital Management, LLC (“VCM”) was formed in 2011 and registered with the SEC as an investment adviser in February 2012. VCM is primarily owned by Vivaldi Holdings, LLC, a Delaware limited liability company. Vivaldi Holdings, LLC’s principal owners are David Sternberg (through a corporation), Michael Peck, Randal Golden (through a corporation), Chad Eisenberg, and Scott Hergott (through a limited liability company).

As of December 31, 2018, VCM had \$1,525,590,451 of regulatory assets under management, \$1,158,340,498 of which are managed on a discretionary basis and \$367,249,953 of which are managed on a nondiscretionary basis.

### **Firm Products & Services**

VCM is an investment advisory firm that specializes in providing integrated wealth management solutions (including offering alternative investments) to high net worth individuals and their related trusts, retirement plans and other entities, family offices and other institutional clients.

#### *Wealth Management Services*

VCM primarily provides its clients with integrated investment and other wealth planning and management services. Our wealth management philosophy is rooted in a dedication to knowing you and your family personally so that we can thoroughly understand your goals, interests, concerns, and risk tolerance. In accord with that philosophy, each client works with a dedicated wealth adviser who utilizes VCM’s internal resources to tailor wealth management solutions that address the client’s unique needs.

VCM’s platform is designed to allow us to tailor investment recommendations to each client and in turn to construct an allocation that is unique to a client’s needs, objectives and circumstances. Prior to engaging VCM, each client is asked to enter into one or more written agreements setting forth the terms, conditions, and objectives governing VCM’s services. In addition, each client may be asked to furnish, or arrange to have furnished, information regarding accounts held with other financial institutions along with information about other assets in which they have an ownership interest.

For various clients, VCM provides separately managed accounts<sup>1</sup>; equity, mutual fund and fixed income portfolio solutions; alternative investments (often in the form of private funds sponsored and managed by VCM); and institutional due diligence services on various fund managers and products in which clients may wish to invest outside of VCM. In addition, VCM provides comprehensive wealth management, asset and performance reporting, offers individualized financial planning, and helps orchestrate professional services provided by third parties (including accountants, attorneys, etc.).

VCM believes that its clients may benefit from allocation to alternative investments. Investing directly in hedge funds, private equity, and/or real estate funds can be difficult for many individuals given that certain managers may require large minimum investments which limit an individual’s ability to diversify his/her

---

<sup>1</sup> A separately managed account (“SMA”) is a portfolio of securities directly owned by the investor and managed according to a specific discipline and/or style by a professional investment manager. SMAs, while often managed in line with pooled vehicles the investment manager may also be managing, differ from pooled vehicles like mutual funds in that each portfolio is unique to a single account (i.e. there may not be an exact correlation between the holdings and transactions in the SMA with that of the pooled vehicle or other accounts the investment manager may be managing). SMAs are managed on a discretionary basis for large, typically institutional, investors.

investments, may have restrictive liquidity terms, or may no longer be open to new investors. To help offset these potential barriers to entry into these types of investment opportunities, VCM has structured several multi-manager private funds that allow VCM qualified clients to access relatively diversified and carefully constructed pools of institutional-quality alternative investments, including hedge funds and private equity and real asset funds, managed by unaffiliated investment advisers. VCM structures these opportunities based on thorough investment and risk management research, combined with sophisticated legal and operational due diligence. These private funds are sponsored and managed by VCM (as described further below and elsewhere in this Brochure).

#### *VCM Private Funds*

VCM serves as the Managing Member of six privately-offered alternative investment allocation vehicles (together, the “VCM Private Funds”):

- VCM Core Alternative Fund LLC;
- VCM Core Opportunities Fund LLC;
- Vivaldi Private Investment Platform LLC;
- Vivaldi Real Estate Platform LLC;
- VCM Offshore Fund I LP (feeder fund); and
- VCM Offshore Fund II LP (feeder fund).

As opposed to traditional “fund-of-funds,” the VCM Private Funds provide clients with the ability to customize their investment allocations to various underlying funds through the selection of different single-manager or multi-manager classes within each investment strategy group (i.e.: arbitrage; credit; equity long/short; event driven; mortgages; private equity; and real estate). The investment programs of each class of the VCM Private Funds are based upon the specific objectives of each over-arching strategy and the underlying fund(s) in which the class invests. Investors should refer to the VCM Private Funds’ private placement memoranda and class supplement documents, as well as the underlying funds’ private placement memoranda, for a more complete discussion of these investments.

The VCM Private Funds are limited liability companies or limited partnerships and are exempt from registration under federal securities regulations, including the Investment Company Act of 1940 (the “Investment Company Act”) and the Securities Act of 1933 (the “Securities Act”). As a result, investment in the VCM Private Funds is limited to persons who are “accredited investors” as defined under the Securities Act and, depending on the fund, “qualified purchasers” as defined in the Investment Company Act.

#### *Vivaldi Investment Research*

Vivaldi Investment Research (“VIR”) offers specialized services to a select group of Registered Investment Advisors (“RIA”s), Family Offices, and Institutional clients. Vivaldi’s internal research team performs due diligence on managers across all asset classes and strategies, and maintains a proprietary database of firms, portfolio managers, and all related correspondence. VIR performs ongoing due diligence on VCM-approved managers that includes both investment and operational oversight.

In addition to manager due diligence, VIR is also responsible for the oversight of strategy models (referred to as building blocks) which span a range of asset classes and objectives. See “**Investment Strategies – Managed Portfolios**” below. VCM advisors and RIAs utilize these building blocks to construct diversified client portfolios to meet client goals and objectives. RIAs also may engage VCM to sub-advise SMAs for their clients utilizing one or more VIR strategy models.

VIR services include:

- Access to Institutional-Quality Managers
- Research & Due Diligence
- Customized Portfolios Solutions

### *ERISA Investment Fiduciary Services*

VCM, doing business as VCM Retirement Plan Services, provides investment advisory services and investment management services to retirement plan sponsors and participants. In performing these services, VCM acts as a fiduciary and performs those duties required of a fiduciary as defined under Section 404 of the Employee Retirement Income Security Act of 1974 (“ERISA”) and Section 4975 of the Internal Revenue Code of 1986, each as may be amended from time to time. VCM acts solely in the best interest of retirement investors in accordance with the fiduciary responsibilities set forth in ERISA.

When it acts as an ERISA 3(21) investment adviser, VCM advises plan sponsors on developing an Investment Policy Statement that will contain the standards and process for selecting and monitoring the plan’s investments, as well as set forth the general investment options and asset class categories to be offered to plan participants. VCM provides recommendations to the plan sponsor to assist the plan participants in selecting which investment portfolio is right for them. VCM also monitors the recommendations and provides periodic reports to the plan sponsor on investment performance. VCM does not provide recommendations on securities held outside of the plan.

When it acts as an ERISA 3(38) investment manager, VCM provides selection, monitoring, and replacement of fund options for retirement plans on a discretionary basis. VCM creates an Investment Policy Statement that details the investment strategy and implementation for the plan. VCM will assist the plan with preparing an investment strategy that prudently diversifies the plan’s assets to meet an agreed upon risk/return profile.

VCM provides general enrollment and education meetings with plan participants as well as meets with plan participants to gauge their risk tolerance and their investment goals. VCM provides risk-based model portfolios to plan participants that are asset allocation portfolios based on generally accepted investment theories.

To help avoid conflicts of interest and ensure compliance with relevant regulations, VCM will not recommend any of the public or private funds which it or its affiliates manage to plan participants and will not include these funds in its model portfolios.

## **Fees & Compensation**

### **Wealth Management Services**

VCM generally charges clients for which it provides Wealth Management Services an asset-based fee (a “Management Fee”) based on a schedule that takes into consideration the size of the client’s portfolio. The current schedule is as follows:

<b>Assets Under Management</b>		
<b>Min (\$)</b>	<b>Max (\$)</b>	<b>bps</b>
0	2 million	125
2 million	5 million	95
5 million	15 million	75
15 million	25 million	65
25 million	50 million	55
50 million	>50 million	50

The Management Fee may vary based on certain client-specific factors such as account size, number of accounts held together under a household, as well as the asset classes in which the client invests and the complexity of the relationship. In many circumstances, related family assets are aggregated for calculating

fee breakpoints. Certain clients may receive a discount based on the limited scope of services being provided or during the initial period of investment. When engagements involve multiple households, the fee schedule is applied at the family level and a discount is applied for each household depending on the size and complexity of the relationship.

In order to have VCM manage personal investments, or to invest in the VCM Private Funds, VCM typically requires a minimum initial account size of \$1,000,000. VCM reserves the right to accept client accounts that do not meet these minimum conditions.

As a component of its investment strategy, VCM utilizes the VCM Private Funds and certain other private funds managed by VCM (Highland Capital Management LP and Highland Capital Management Institutional Fund II LLC (collectively, the "Highland Funds")) or for which a VCM affiliate performs services (GrizzlyRock Institutional Value Partners LP (the "GrizzlyRock Fund" and collectively with the VCM Private Funds and the Highland Funds, the "VCM Funds")). Clients who invest a portion of their assets in the VCM Funds pay a single Management Fee on those assets (i.e. the client pays VCM no additional fees because of its involvement with the VCM Funds). Depending on the circumstance, VCM may debit the entire Management Fee from a custodial account and set the Management Fee within the VCM Funds to zero, or vice versa, or the Management Fee could be charged in part through a debit to a custodial account and in part within the VCM Funds. The value of the VCM Fund investments is included in the client's portfolio for purposes of determining the applicable Management Fee rate, and detailed reconciliations are available for clients to review.

As a component of its investment strategy, VCM also utilizes registered mutual funds advised by VCM's affiliate Vivaldi Asset Management, LLC ("VAM"), for which VAM receives fees as detailed in the offering materials for those funds. For clients who invest a portion of their assets in VAM-advised funds, the value of those assets is generally not included in the calculation of VCM's Management Fee, although for certain funds (currently The Relative Value Fund (VFLEX), a fund of interval funds and limited partnership interests) it will be included. The value of the VAM-advised fund investments is included in the client's portfolio for purposes of determining the applicable Management Fee rate.

## **Fee Billing**

The manner in which specific fees are calculated and charged is described in each client's written investment management agreement with VCM. In its agreement with its clients, VCM reserves the right to modify its billing practices.

VCM bills the Management Fee on a calendar quarter basis. Typically, the Management Fee is billed in arrears, however in certain situations, it may be billed in advance. To determine the Management Fee when billed in arrears, the rate to which the client agreed in the client's investment management agreement will be multiplied by the average daily market value of assets under management during the calendar quarter. When billed in advance, the rate to which the client agreed in the client's investment management agreement will be multiplied by the value of the client's portfolio on the last day of the previous quarter. For illiquid assets, where valuations are not always readily available, VCM will normally utilize the last available value plus or minus any intra-quarter capital activity. In any partial calendar quarter, the fee will be pro-rated based on the number of days the client account was open during that quarter.

Clients may pay for advisory services by check or by wire or may give VCM the authority to have the Management Fee debited directly from the client's account(s). Clients typically grant VCM authority to have the Management Fee deducted directly from the client's account(s) held by an independent custodian. VCM will notify the custodian of the amount of the Management Fee due for each quarter through the custodian's electronic disbursement system. The custodian will send each client a statement, at least quarterly, indicating the amounts disbursed from each account, including the amount of the Management Fee paid directly to VCM.

Clients are urged to carefully review the reports received from the custodian and to compare those reports with any reports received from VCM.

### **Additional Services**

Institutional due diligence and other negotiated services are charged a fixed fee that is negotiated in advance, on a project-by-project basis.

### **Other Fees & Expenses**

VCM's fees are exclusive of brokerage commissions, transaction fees, and other related costs and expenses which may be imposed by custodians, brokers, third party managers, and other third parties. These additional charges may include custodial fees, deferred sales charges, transfer taxes, wire transfer fees, electronic fund fees, and other fees and taxes on brokerage accounts and securities transactions. Clients pay these fees directly to the custodian and/or broker. See "Brokerage Practices" below for a description of the factors that VCM considers in selecting or recommending broker-dealers for client transactions and in determining the reasonableness of their compensation (e.g., commissions).

Separately managed accounts, non-affiliated managed funds, mutual funds and exchange traded funds ("ETFs") are subject to additional fees, commissions and administrative costs that are borne by their investors. Clients' trading activity in stocks, bonds, mutual funds and ETFs will result in commissions and other transaction costs in accordance with each client's arrangements with its broker/dealer and custodian. Mutual funds, ETFs and private funds also charge internal management fees, which are disclosed in a fund's prospectus or offering documents.

Neither VCM nor its supervised persons accept compensation for the sale of securities or other investment products.

### **VCM Fund Management Fees**

The VCM Funds are subject to a variety of fees and expenses. These fees and expenses generally include management fees and may include performance-based incentive allocations collected by the unaffiliated managers chosen by VCM; fund legal, administrative, and audit costs; and costs incurred in connection with the acquisition, ownership, financing, hedging or sale of investments, and taxes for the VCM Funds and for the underlying funds in which they invest. These fees and expenses are described in detail in each VCM Fund's confidential offering materials. No compensation expenses for VCM or its employees are charged to the VCM Funds.

Each client that invests in the VCM Funds indirectly bears his or her proportional share of the fees and expenses of the applicable fund. These fees and expenses are charged to the relevant VCM Fund and not billed directly to the client. If the above expenses are incurred jointly for the accounts of a VCM Fund and any other fund managed by VCM or its affiliates, such expenses will generally be allocated among the VCM Fund and/or such other funds in proportion to the size of the investment made by each activity or entity to which the expense relates, or in such other manner as VCM considers fair and reasonable to all of the funds over time.

The payment of management fees, performance-based fees, and administrative and operating expenses at the underlying fund, and possibly sub-fund levels, as well as the payment of administrative and operating expenses incurred by the VCM Funds, may result in a layering of fees and significant expenses.

### **Waivers**



Compensation payable to VCM is generally not negotiable, but under certain circumstances VCM may, in its sole discretion, reduce or waive all or a portion of its Management Fee, other compensation and/or expenses for a particular investor based on factors such as assets under management with the firm, longevity, and type of investment.

### **Transactions or Arrangement between Certain Related Parties**

As discussed further below, VCM and VAM are related companies under the common control of Vivaldi Holdings, LLC (all entities collectively referred to herein as “Vivaldi”). As a component of its investment strategy, VCM may utilize underlying mutual funds or private funds advised by VCM or its affiliate(s), including VAM (“Affiliated Funds”). In such situations, VCM or its affiliate(s) receive fees from the Affiliated Funds for serving as investment adviser or other service provider to the Affiliated Fund (as detailed in the Affiliated Fund’s offering materials). These fees create a financial incentive for VCM to utilize Affiliated Funds so that fees and expenses charged by the fund or manager are earned by VCM or its affiliate, rather than a non-affiliate.

### **Termination of Advisory Agreement**

VCM’s investment management agreement provides for termination of the investment management relationship between VCM and the client upon written notice. In the event a client terminates his/her/its account or otherwise withdraws assets prior to the end of the quarter, a final invoice shall be issued for payment promptly upon such notice of termination. In addition, the client may be subject to investment withdrawal fees, gates or other restrictions charged by any of the investments in which the client may have assets that the client may wish to redeem or sell at the time of the termination.

Termination of the investment management relationship with VCM does not terminate a client’s obligations to meet capital calls for, or other commitments to, any private equity investments made through or with VCM as described in those investments’ confidential offering materials.

### **Performance Based Fees & Side by Side Management**

Payment of management fees, performance-based fees, and administrative and operating expenses charged by any of the funds in which a client directly or indirectly invests results in a layering of fees which may result in a significant cost of investment.

### **Performance Based Fees**

VCM generally does not charge performance-based fees on the VCM Private Funds, except on occasion and only as set forth in the offering materials for a particular fund offering. In addition, investors in the VCM Private Funds are subject to performance-based fees on the underlying funds in the VCM Private Funds. These performance-based fees usually are calculated based on a percentage share of the net profit on, or capital appreciation of, the assets of the applicable fund. A performance allocation payable by a VCM Private Fund to VCM may create an incentive for VCM to cause the fund to make investments that are riskier or more speculative than if VCM were allocated only a fixed amount. For additional information, please see the VCM Private Funds’ offering materials (in particular, the Class Supplements and supporting documentation).

VCM may earn a performance fee from the Highland Funds. This performance-based fee is calculated based on a percentage share of the net profit on, or capital appreciation of, the assets of the fund. The performance allocation may create an incentive for VCM to cause the Highland Funds to make investments that are riskier or more speculative than would be the case if VCM were allocated only a fixed amount. Please see the Highland Funds’ offering materials for additional information about the performance-based fee.

Performance-based fees are only charged in accordance with the provisions of Rule 205-3 of the Investment Advisers Act of 1940 (the “Advisers Act”) and any applicable state regulations.

## **Side by Side Management**

From time to time, VCM may become aware that certain of the private funds in which the VCM Private Funds invest are willing to accept direct investments from VCM’s clients. In such cases, VCM may notify select clients about the investment opportunity. Although VCM will always try to treat its clients fairly over time, these types of investment opportunities will only be presented to those clients for whom VCM believes, based on the client’s stated financial profile and investment objectives, they would be appropriate.<sup>2</sup>

In addition, conflicts could exist between the allocation of investment opportunities for SMAs, sub-advised assets, investment company assets managed by VAM, and the Highland Funds. Conflicts may exist due to available funds or restrictions defined in the investment management agreement. VCM has designed its procedures to provide fair and equitable allocation between the private funds, SMAs, sub-advised assets and the registered investment company assets advised by VCM or an affiliate.

Because we endeavor at all times to put the interest of our clients first, we take the following additional steps to address any potential conflicts:

- We disclose to investors and prospective clients the existence of material conflicts of interest, including the potential for our firm and its employees to earn more compensation from some clients than others; and
- We have implemented policies and procedures for fair and consistent allocation of investment opportunities among any funds or other client accounts, subject to the fund’s/client’s underlying strategy, cash availability, availability of interests in the underlying funds, and other appropriate considerations.

## **Investment Strategies, Methods of Analysis & Risk of Loss**

### **Investment Committee**

Vivaldi’s Investment Committee, which is comprised of Vivaldi’s executive team, is responsible for the construction, management and oversight of model portfolios as well as holdings within the VCM Private Funds. The Investment Committee meets at least quarterly to review detailed investment and due diligence reports prepared by VIR (including members of Vivaldi’s Research Team) to determine whether changes should be made to either the model portfolios or the list of investments made available through the VCM Private Funds. All Investment Committee approval decisions must be unanimous. Any vote to remove a strategy or manager or change model weightings must be approved by a simple majority of the members of the Investment Committee.

### **Investment Strategies**

#### *Managed Portfolios*

VCM constructs managed client portfolios using an asset allocation strategy that breaks down the investment universe into five core asset classes – Equities, Fixed Income, Alternatives, Real Estate and Private Equity – and then creates a customized asset allocation for each client across traditional and alternative investment

---

<sup>2</sup> Clients will only be presented with such opportunities if VCM knows that they can satisfy the higher minimum required for a direct investment.

strategies tailored to the client's particular circumstances and investment objectives.

Within each core asset class, VCM employs a variety of strategies that form the "building blocks" for client portfolio construction. These strategies and their relative emphasis will change over time, depending upon market conditions and perceived opportunities. Some of these strategies are managed by VIR, while others are managed by third-party managers selected by VIR. The strategies differ in structure (e.g. mutual funds, ETFs, limited partnerships, closed-end funds, separately managed accounts), liquidity (e.g. daily, monthly, quarterly or longer), investment minimums and investor qualifications. VCM builds customized client portfolios using one or more strategies within an allocated asset class depending upon a client's goals, risk tolerance, investment horizon, potential needs for liquidity and other factors.

Below is a list of VCM's core asset classes and some of the strategies within each class. Investments within these strategies usually are in the form of mutual funds, ETFs, closed-end funds, interval funds and/or separately managed accounts unless otherwise indicated.

- Equities
  - Global Equities
  - Domestic Equities
  - Tax Managed Equities
  - Active Equities
  - MLP Solutions (Master Limited Partnerships)
- Fixed Income
  - Short-Term Income
  - Core Municipal Bonds
  - Core Taxable Bonds
  - Core Municipal Closed-End Funds
  - Strategic Income
  - Opportunistic Closed-End Funds
- Alternatives
  - Strategic Alternatives
  - Multi-Manager Models (Limited Partnerships)
  - Individual Managers (Limited Partnerships)
- Real Estate
  - Real Estate Strategies (Private REITs)
  - Select Real Estate (Limited Partnerships)
- Private Equity
  - Private Equity Strategies (Tender Offer Funds)
  - Select Private Equity (Limited Partnerships)

#### *Private Funds*

Each fund's offering materials contain a detailed discussion of the fund's investment objective and investment strategies, which are summarized below.

VCM Private Funds. The VCM Private Funds' investment objective is to achieve capital appreciation by providing investors with access to a variety of investment advisors who implement various proprietary investment programs. An investment in the VCM Private Funds provides investors with the opportunity to invest indirectly in various underlying hedge funds, managed accounts, or other investment vehicles, the assets of which are traded and/or managed by third-party hedge fund, real estate and private equity advisors (some of whom may be affiliated with VCM).

Highland Funds. The principal investment objective of the Highland Funds is to achieve superior risk adjusted returns. The Highland Funds have the broad authority to trade, buy, sell (including sell short), and

otherwise acquire (potentially through the use of margin and other forms of leverage), hold, dispose of, and deal in (directly and indirectly through pooled investments, other investment vehicles, participations and otherwise) such other instruments or interests as the fund managers deem appropriate. The Highland Funds currently engage primarily in merger arbitrage transactions (i.e. buying, selling and selling short securities of issuers undergoing fundamental corporate transactions).

GrizzlyRock Fund. The GrizzlyRock Fund's principal investment objective is to achieve positive absolute returns over a medium to long term time horizon. The GrizzlyRock Fund's portfolio management team employs a relative value equity strategy focused on a portfolio of long and short positions in companies which their research has shown have potential core earnings power and/or cash flow different than that which has been projected by mainstream analysts.

## **Methods of Analysis**

### *Wealth Management Services*

VCM typically meets with new clients on several occasions, either in person or by phone, before making investment recommendations. These customized investment recommendations are based on a variety of factors, including, but not limited to, the client's current financial situation (income; net worth; cash available for investment), investment objectives, risk tolerances, and liquidity requirements. VCM works carefully to understand each client's risk tolerance, but clients should understand that all investing involves a risk of loss.

### *VCM Private Funds*

When VCM examines potential investment managers in which to invest, to recommend or to make available via the VCM Private Funds, VCM reviews the manager's performance record and methods of evaluating and managing risk, as well as its back-office support, infrastructure and service providers to confirm that controls are in place that are designed to safeguard client assets. The due diligence process includes both direct research, such as examining underlying governing documents and offering materials, past audits, the investment team's experience, sophistication and depth, and the firm's operational processes and infrastructure, as well as indirect methods of analysis, such as background checks, reference checks, public filings, valuation confirmations, regulatory history reviews, and confirmation of third-party service providers. VCM monitors chosen managers continuously to confirm, and understand factors impacting, their performance as well as periodically to review any material changes to the manager's business, discuss the manager's view on the market and/or their targeted industry, and assess whether there are factors that warrant revisiting whether and to what extent a particular investment opportunity should continue to be offered.

## **Principal Investment Risks**

No investment is free of risk. Current and prospective clients are cautioned that investments in securities involve risk of loss, including the possibility of a complete loss of the amount invested, and that they should be prepared to bear these risks. Based on the types of investments that VCM may recommend, all clients should be aware of certain risk factors, which include, but are not limited to, those discussed in the following paragraphs. Clients also should carefully review the offering materials of any investment funds recommended by VCM to ensure that they are aware of and understand the risks and costs involved with such investments.

### *Risks Associated with Equity Securities*

All investments in equity securities are subject to market risks that may cause their prices to fluctuate over time. Historically, the equity markets have moved in cycles and the value of the securities may fluctuate substantially from day to day. Owning an equity security can also subject an investor to the risk that the issuer may discontinue paying dividends. Investments in common stocks are subject to the risk that in the event a company is liquidated, the holders of preferred stock and creditors of that company will be paid in

full before any payments are made to the holder of common stock. It is possible that all assets of that company will be exhausted before any payments are made to a common stock holder.

An investment in rights and warrants may entail greater risks than certain other types of investments. A right is a privilege granted to existing shareholders of a corporation to subscribe to shares of a new issue of common stock and it is issued at a predetermined price in proportion to the number of shares already owned. Rights normally have a short life, usually two to four weeks, are freely transferable and entitle the holder to buy the new common stock at a lower price than the current market. Warrants are options to purchase equity securities at a specific price for a specific period of time. They do not represent ownership of the securities, but only the right to buy them. Hence, warrants have no voting rights, pay no dividends and have no rights with respect to the assets of the corporation issuing them. Warrants differ from call options in that the underlying corporation issues warrants, whereas call options may be written by anyone. Generally, rights and warrants do not carry the right to receive dividends or exercise voting rights with respect to the underlying securities, and they do not represent any rights in the assets of the issuer. In addition, although their value is influenced by the value of the underlying security, their value does not necessarily change with the value of the underlying securities, and they cease to have value if they are not exercised on or before their expiration date.

#### *Risks Associated with Fixed Income Investments*

The issuer of a fixed income security may not be able to make interest and principal payments when due. Generally, the lower the credit rating of a security, the greater the risk that the issuer will default on its obligation. As nominal interest rates rise, the value of fixed income securities is likely to decrease. A nominal interest rate is the sum of a real interest rate and an expected inflation rate.

Traditional convertible securities include corporate bonds, notes and preferred stocks that may be converted into or exchanged for common stock, and other securities that also provide an opportunity for equity participation. These securities are convertible either at a stated price or a stated rate (that is, for a specific number of shares of common stock or other security). As with other fixed income securities, the price of a convertible security generally varies inversely with interest rates. While providing a fixed income stream, a convertible security also affords the investor an opportunity, through its conversion feature, to participate in the capital appreciation of the common stock into which it is convertible. As the market price of the underlying common stock declines, convertible securities tend to trade increasingly on a yield basis and so may not experience market value declines to the same extent as the underlying common stock. When the market price of the underlying common stock increases, the price of a convertible security tends to rise as a reflection of higher yield or capital appreciation. In such situations, an investor may have to pay more for a convertible security than the value of the underlying common stock.

#### *Risks Associated with Exchange-Traded Funds*

ETFs are open-end investment companies whose shares are listed on a national securities exchange. An ETF is similar to a traditional mutual fund, but trades at different prices during the day on a security exchange like a stock. To the extent that a client invests in ETFs which focus on a particular market segment or industry, the client will also be subject to the risks associated with investing in those sectors or industries. To the extent the client invests in inverse ETFs, these are subject to the risk that their performance will decline as the value of their benchmark indices rises. As a purchaser of ETF shares on the secondary market, a client will be subject to the market risk associated with owning any security whose value is based on market price. ETF shares historically have tended to trade at or near their net asset value, but there is no guarantee that they will continue to do so.

#### *Risks Associated with Alternative Investments*

VCM may recommend to qualified clients the use of alternative investments such as investments in real estate, private equity, or hedge funds. VCM may also recommend a direct investment into a private company. Investments in such "alternative assets" may be illiquid, which may impair the ability of the client to exit such

investments in times of adversity. Alternative investments may utilize highly speculative investment techniques, including leverage, highly concentrated portfolios, senior and/or subordinated securities positions, control positions and illiquid investments. In addition, they may utilize derivative instruments to attempt to hedge the risks associated with certain of their investments. Transactions in such derivative instruments may expose the assets of investment funds to the risks of material financial loss, which may in turn adversely affect the financial results of the client. Clients who invest in alternative investments will pay VCM's advisory fees and those of the underlying investment managers, and certain other fees and expenses of underlying investment funds in which the client invests. Investors in alternative investments may also pay carried interest, performance or incentive allocations to an underlying manager or sponsor of an underlying investment fund in which they invest, all of which contribute to the overall cost of the investment.

#### *Risks Associated with Investments in Private Funds*

Investments in pooled investments and other investment vehicles generally are subject to legal or contractual restrictions on their resale. If the fund requests a complete or partial withdrawal of its interest in an underlying fund, the investment adviser of the underlying fund generally may, in its discretion or at the election of the fund, (i) not satisfy the fund's withdrawal request with respect to the portion of the investment's assets represented by illiquid investments until the disposition of those illiquid investments, (ii) satisfy the fund's withdrawal request with an in-kind distribution of illiquid investments (either directly or through an in-kind distribution of interests in a special purpose vehicle or other investment vehicle established to hold such illiquid investments), or (iii) in some cases, satisfy the withdrawal amount by valuing illiquid investments at the lower of cost or market or otherwise in the sole discretion of the applicable investment adviser. If the fund receives distributions in-kind from an investment, the fund may incur additional costs and risks to dispose of such assets. In addition, certain underlying funds may require maintenance of investment minimums and/or have holding periods and/or other withdrawal provisions more restrictive than those of the fund. These may include, but are not limited to, lock-ups, "side pockets," withdrawal "gates" and fees, suspensions and delays of withdrawals and other similar limitations. In addition, investors should realize that VCM has no control over the day-to-day operations of the underlying managers in the VCM Private Funds.

### **Disciplinary Information**

Neither VCM nor any of its management has been involved in any legal or disciplinary events that would be material to a client's evaluation of VCM or its management.

### **Other Financial Industry Activities & Affiliations**

VCM is not actively engaged in a business other than (i) providing investment advice to its clients, and (ii) structuring, offering and managing private investment vehicles. Neither VCM nor any of its management is registered, or has an application pending to register, as a broker-dealer, futures commission merchant, commodity pool operator, commodity trading adviser, or associated person of the foregoing, and VCM does not anticipate such affiliations in the future.

VAM, an SEC-registered investment advisory firm that provides advisory services to alternative strategy mutual funds, is a VCM affiliate and is owned by Vivaldi Holdings, LLC. VAM currently serves as the investment adviser to two daily liquid mutual funds (the Vivaldi Merger Arbitrage Fund and the Vivaldi Multi-Strategy Fund) and to three closed-end funds (the Infinity Core Alternative Fund, The Relative Value Fund, and the Vivaldi Opportunities Fund). Additionally, VAM is also a sub-advisor to the First Trust Merger Arbitrage ETF. Clients should note that:

- VCM and VAM have certain overlapping officers and employees and share office space and certain expenses, although they operate independently.
- In instances where an employee acts as the portfolio manager to more than one fund, VCM monitors

that portfolio manager's trades across all accounts. In addition, VCM, in accordance with its Code of Ethics as further discussed below, monitors the employee's personal trading.

- In some instances, the principals of VCM may recommend to clients investments in registered investment companies managed by VAM.

VCM serves as the Managing Member and Investment Manager to six privately-offered alternative investment allocation vehicles: VCM Core Alternatives Fund LLC; VCM Core Opportunities Fund LLC; Vivaldi Private Investment Platform LLC; VCM Real Estate Platform LLC; VCM Offshore Fund I LP; and VCM Offshore Fund II LP.

VCM also serves as the Managing Member of Highland Capital Management Institutional Fund II, LLC and a VCM affiliate is the General Partner of Highland Capital Management, L.P.

VAM has a service agreement through which it provides certain administrative, technological, and back-office services to GrizzlyRock Capital, LLC. GrizzlyRock Capital, LLC manages the GrizzlyRock Fund.

Vivaldi Holdings, LLC is party to a joint venture agreement with an unrelated financial advisory firm that operates as a family office. The joint venture has a service agreement to provide certain compliance, consulting, administrative, technology and middle-office and back-office services to VCM, VAM and the joint venture partner. In addition, VCM and the joint venture partner provide administrative services to the joint venture.

Vivaldi Holdings LLC is party to another joint venture agreement with an unrelated private real estate investment firm. The joint venture provides management services to a private real estate investment trust (REIT) and related real estate operating company.

Neither VCM nor VAM has arrangements with a related person who is a broker-dealer, investment company, other investment adviser, financial planning firm, commodity pool operator, commodity trading adviser or futures commission merchant, banking or thrift institution, accounting firm, law firm, insurance company or agency, pension consultant, real estate broker or dealer, or an entity that creates or packages limited partnerships that are material to its advisory services or its clients.

VCM has and will continue to develop relationships with professionals who provide services it does not provide, including legal, accounting, banking, tax preparation, insurance brokerage, investment management services and other personal services. None of these relationships creates a material conflict of interest with any of VCM's clients.

## **Code of Ethics, Interest in Client Transactions & Personal Trading**

### **Code of Ethics**

VCM has adopted a Code of Ethics for all supervised persons that includes policies and procedures governing their conduct and addressing the firm's fiduciary duty to its clients. The Code of Ethics includes provisions relating to standards of business conduct, the confidentiality of client information, and a prohibition on insider trading. At the beginning of employment and at least annually thereafter, all VCM supervised persons must acknowledge in writing the terms of the Code of Ethics and agree to be bound by it. VCM employees who violate the Code of Ethics may be subject to disciplinary actions, including, but not limited to, profit disgorgement, fines, censure, suspension or dismissal. Personnel are also required to promptly report any violations of the Code of Ethics of which they become aware.

Subject to satisfying VCM's policies as set forth in the Code of Ethics and applicable laws, officers, directors and employees of VCM and its affiliates may trade for their own accounts in securities which are

recommended to and/or purchased for VCM's clients. The Code of Ethics is designed to allow employees to invest for their own accounts while assuring that material non-public information is not being used and the personal securities transactions, activities and interests of VCM's employees will not interfere with making and implementing decisions in the best interest of VCM's clients.

VCM's clients or prospective clients may request a copy of the firm's Code of Ethics by contacting us at 312-248-8300.

## **Conflicts of Interest**

The investment documents provided to each client contain a description of what VCM believes to be the most significant conflicts of interest associated with a VCM recommended investment. Some of these conflicts are summarized in this Brochure; however, this summary does not attempt to describe all of the conflicts of interest associated with a prospective investment. Investors should carefully consider the conflicts of interest discussed in this Brochure, as well as those outlined in offering materials provided to them.

### *Participation or Interest in Client Transactions*

VCM anticipates that, in appropriate circumstances consistent with clients' investment objectives, it will recommend to clients or prospective clients the purchase or sale of securities in which VCM, its affiliates and/or clients, directly or indirectly, have a position or interest. In these cases, VCM explicitly discloses the position or interest / relationship to the client prior to providing any such client with materials related to the investment. VCM and certain employees and affiliates of VCM may invest in and alongside its clients and its funds, either through the general partner, as direct investors in the fund, with outside fund managers, or otherwise.

VCM will not affect any principal or agency cross securities transactions for client accounts without pre-approval from the client. Principal transactions are generally transactions where an adviser, acting as principal for its own account or the account of an affiliate, buys from or sells any security to any advisory client. A principal transaction may also be deemed to have occurred if a security is crossed between an affiliated fund and a client account. An agency cross transaction is a transaction where an investment adviser, or any person controlled by or under common control with the investment adviser, acts as broker for both the advisory client and for another person on the other side of the transaction. VCM will seek pre-approval from the underlying investor(s) prior to executing a cross trade.

### *Transactions or Arrangements between Certain Related Parties*

VCM and VAM are related companies under the common control of Vivaldi Holdings, LLC. As a component of its investment strategy, VCM may utilize Affiliated Funds (private funds managed by VCM or mutual funds for which VAM is the adviser, which often include the word "Vivaldi" or a derivation of it (e.g., "VCM") as part of their name). VCM provides clients with specific disclosures regarding conflicts of interest when the potential for such conflicts exists.

When applicable, VCM aggregates and allocates investment opportunities amongst its clients by applying such considerations as it deems appropriate, including the client's relative size, amount of available capital, size of existing positions in the same or similar securities, leverage and other factors. VCM will attempt to allocate investment opportunities pro rata, when possible, amongst participating clients. VCM may, however, increase or decrease the amount of securities allocated to each account if necessary to avoid holding odd-lot or small numbers of shares for particular clients. Additionally, if VCM is unable to fully execute a batched transaction and it is determined that it would be impractical to allocate a small number of securities/investments among the participating accounts in the transaction on a pro-rata basis, VCM may allocate such securities/investments in a manner determined in good faith to be a reasonable and fair allocation.



VCM's principals devote as much of their time to the business of VCM as in their judgment is reasonably required, but are not required to devote a particular amount of time to this business. However, as described above, the principals are currently involved in other business ventures or may organize or become involved in other business ventures in the future. VCM clients will not share in the risks or rewards of such other ventures, which may compete with current investments made by VCM clients for the time and attention of the principals and therefore create additional conflicts of interest.

## **Brokerage Practices**

### **Recommending Brokerage Firms**

In selecting a broker or dealer, VCM may consider, among other things, the broker or dealer's execution capabilities, reputation and access to the markets for the securities being traded. Other considerations include the amount of transaction costs, the quality of execution, the expertise in particular markets, the experience and financial stability of the firm, the availability of stock loans, the quality of service, the familiarity both with investment practices generally and the techniques employed by VCM particularly, the research and analytic services, clearing and settlement capabilities. VCM generally will seek competitive commission rates but will not necessarily attempt to obtain the lowest possible transaction commission. VCM will arrange for the execution of securities transactions through brokers or dealers that it reasonably believes will provide "best execution". VCM seeks to execute client transactions in such a manner that the client's total cost or proceeds in each transaction is the most favorable under the circumstances.

VCM participates in the institutional adviser program offered by TD Ameritrade Institutional ("TD Ameritrade") and has a relationship with the advisory services division of Charles Schwab & Co., Inc. ("Schwab"). Each of TD Ameritrade and Schwab is a registered broker/dealer and member of FINRA/SIPC, and unaffiliated with VCM. These firms offer institutional platforms to advisers which include custody of securities, trade execution, clearance and settlement of transactions. VCM typically recommends that clients establish brokerage accounts with TD Ameritrade or Schwab to maintain custody of client assets and to effect trades in their accounts.

TD Ameritrade and Schwab each provides VCM with access to its institutional trading and custody services, which are typically not available to their retail investors. That includes access to a trading desk serving VCM clients, block trading (which provides the ability to aggregate securities transactions for execution and then allocate the appropriate shares to client accounts), and an electronic communications network for client order entry and account information. In addition, these services include brokerage, custody, research and access to mutual funds and other investments that are otherwise generally available only to institutional investors or would require a significantly higher minimum initial investment. These services are not otherwise contingent upon VCM's commitment to any specific amount of business (i.e., assets in custody or trading). These services generally are also available to independent investment advisers on an unsolicited basis, at no charge to them, so long as a total of at least \$10 million of VCM's clients' assets are maintained in accounts at these brokers.

By availing itself of these institutional platforms, VCM and its affiliates may receive products and services (provided without cost or at a discount) that benefit VCM but may not directly benefit VCM's clients' accounts, but which may assist VCM in managing and administering those accounts. These include software and other technology that (i) provide access to client account data (such as trade confirmations and account statements), (ii) facilitate trade execution (and allocation of aggregated trade orders for multiple client accounts), (iii) provide research, pricing information, and other market data, (iv) facilitate payment of VCM's fees from client accounts, and (v) assist with back-office functions, recordkeeping and client reporting. These platforms also provide discounts on compliance, marketing, research, technology and practice management products or services provided to VCM by third party vendors.

Both TD Ameritrade and Schwab also make available to VCM other services intended to help VCM manage

and further develop its business enterprise. These services may include consulting, publications and conferences on practice management, information technology, business succession, regulatory compliance, and marketing. In addition, they may make available, arrange and/or pay for these types of services rendered to VCM by independent third parties. TD Ameritrade and Schwab may discount or waive fees that they would otherwise charge for some of these services or pay all or a part of the fees of a third-party providing these services to VCM. VCM endeavors to act in its clients' best interests; however, VCM's recommendation that clients maintain their assets in accounts at these brokers may be based in part on the benefit to VCM of the availability of some of the foregoing products and services and not solely on the nature, cost or quality of custody and brokerage services provided by the brokers.

VCM receives some benefits from TD Ameritrade through its participation in TD Ameritrade's AdvisorDirect program, as described more fully below.

### **Soft Dollars<sup>3</sup>**

VCM may effect transactions with broker-dealers who provide research or brokerage services meant to assist VCM in making investment and trading decisions on behalf of its clients. The negotiated commissions paid to broker-dealers supplying such research or brokerage services may not represent the lowest obtainable commission rates. Section 28(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), does however provide a "safe harbor" to investment managers like VCM who use commission dollars generated off of their advisory accounts to obtain investment research, brokerage and other services that provide lawful and appropriate assistance to the manager in performing investment decision-making responsibilities ("soft-dollar" arrangements), provided that the amount of any increased commission costs on account of such research or other services is reasonable relative to the value of the services so provided. VCM complies with this soft-dollar "safe harbor" afforded by Section 28(e) under the Exchange Act.

VCM utilizes allocations of commission dollars solely to pay for (i) certain expenses which would otherwise be borne by its clients (and which therefore do not involve the conflict of interest issues normally presented by "soft dollar" arrangements covered by Section 28(e)) and/or (ii) products or services that qualify as "research and brokerage services," within the meaning of Section 28(e), pursuant to arrangements that meet the other requirements of that section. Services, other than research, obtained by the use of commissions arising from client transactions will only be used for the benefit of VCM's clients, and such services will be limited to services that would otherwise constitute an expense borne by its clients.

VCM may have an incentive to select or recommend a broker-dealer based on its interest in establishing soft-dollar arrangements with that firm. Further, VCM may, in its discretion, cause an account to pay one or more brokers a commission greater than another qualified broker might charge to effect the same transaction where VCM determines in good faith that the commission is reasonable in relation to the value of the brokerage and research services received. Such arrangements are periodically reviewed along with the broker's execution performance to ensure that any potential conflicts of interest issues are identified and addressed.

The benefits of research and other services obtained through the use of soft-dollars are not limited to those clients who have helped to acquire the particular benefit through the payment of commissions generated off of transactions in their accounts. Rather, the research obtained through VCM's brokerage allocations may be used by VCM in connection with services rendered to all of VCM's clients, to only certain clients, or to other

---

<sup>3</sup> VCM clients generally pay a Management Fee that covers all investment services provided for the client's account(s) and are not, as a result, charged commissions on individual transactions within their account(s). Where reference is made within this section to commissions paid for transactions in client accounts, it is intended to cover those costs incurred for transactions taking place within the Highland Funds or one of VCM's SMAs, or for block transactions on behalf of multiple clients.

accounts or entities managed by VCM – and consequently it is possible that brokerage commissions paid by a particular client may be used to pay for research that is not used in managing that particular client's account.

Given that research obtained by VCM may be useful to a variety of clients, VCM will not generally attempt to allocate the relative costs or benefits of research between its clients. Accordingly, brokerage allocations from one client may have the effect of indirectly benefiting other entities and investment accounts managed by VCM or its affiliates.

### **Order Aggregation**

As a matter of general policy and practice, VCM will aggregate transactions for its advisory clients where practicable, except in the case of alternative investments. Aggregating transactions allows the trading of aggregate blocks of securities from multiple client accounts. Generally, aggregating client transactions allows VCM to execute transactions in a more timely, efficient and equitable manner and to seek best execution and/or to reduce commission charges.

VCM may not apportion shares to participating clients in equal percentage amounts, but endeavors to achieve balance where possible. Additionally, VCM may aggregate trades of its advisory personnel with those of clients so that firm personnel participate alongside clients in such trades. In general, VCM will endeavor to make all investment allocations in a manner that it considers to be the most equitable to all managed entities and clients. All participants in an aggregated trade generally will be allocated securities on a pro rata, average price per share basis, subject to adjustment if necessary to avoid holding odd-lot or small numbers of shares for particular clients.

### **Trade Errors**

VCM has policies and procedures in place to minimize the occurrence of trade errors and, should a trade error occur, detect and correct such trade errors in a timely manner. While the method of correction may vary depending on the nature of the error, the intent is to make the client whole.

### **Review of Accounts**

VCM reviews each client account at least quarterly but may review them more often if investment conditions require. Accounts are reviewed by VCM's principals or chief investment officers (or their designees), who will also monitor economic, investment and market conditions that might dictate changes in strategy or portfolio holdings. VCM will attempt to contact each client at least annually but will meet with each client more often, if needed, to review investment needs and to provide economic analysis, performance review, and other pertinent information.

Clients receive copies of confirmations from the custodian for all transactions. Clients also receive monthly custodial statements providing a summary of account transactions, with the exception of qualified accounts (such as IRAs with no activity), which receive quarterly statements from the custodian.

Clients with assets in the VCM Private Funds receive a quarterly report reflecting the estimated net asset value of the investor's capital account as of the end of the quarter; clients may receive monthly statements upon request. In addition, VCM or its third-party administrator will distribute on behalf of the VCM Private Funds a copy of the VCM Private Funds' annual audited financial statements within one hundred and twenty (120) days after fiscal year end. All reports sent by VCM to investors are delivered electronically or by regular mail.

## **Client Referrals & Other Compensation**

As described above, VCM participates in TD Ameritrade's institutional customer program and Schwab advisory services. VCM may recommend TD Ameritrade or Schwab to clients for custody and brokerage services. There is no direct link between VCM's participation in these programs and the investment advice it gives to its clients, although VCM receives benefits through its participation in these programs.

VCM may receive client referrals from TD Ameritrade through its participation in TD Ameritrade AdvisorDirect. In addition to meeting the minimum eligibility criteria for participation in AdvisorDirect, VCM may have been selected to participate in AdvisorDirect based on the amount and profitability to TD Ameritrade of the assets in, and trades placed for, client accounts maintained with TD Ameritrade. TD Ameritrade has established AdvisorDirect as a means of referring its brokerage customers and other investors seeking fee-based personal investment management services or financial planning services to independent investment advisers. TD Ameritrade does not supervise VCM and has no responsibility for VCM's management of client portfolios or VCM's other advice or services. VCM pays TD Ameritrade an on-going fee for each successful client referral. This fee is usually a percentage (not to exceed 25%) of the advisory fee that the client pays to VCM (the "Solicitation Fee"). VCM will also pay TD Ameritrade the Solicitation Fee on any advisory fees received by VCM from any of a referred client's family members who hire VCM on the recommendation of the referred client. VCM does not charge clients referred through AdvisorDirect any fees or costs higher than its standard client fee schedule or otherwise pass Solicitation Fees paid to TD Ameritrade to its clients.

Advisor's participation in AdvisorDirect raises potential conflicts of interest. TD Ameritrade most likely refers clients through AdvisorDirect to investment advisers that encourage their clients to custody their assets at TD Ameritrade and whose client accounts are profitable to TD Ameritrade. Consequently, VCM may have an incentive to recommend to clients that the assets under management by VCM be held in custody with TD Ameritrade and to place transactions for client accounts with TD Ameritrade. VCM has agreed not to solicit clients referred to it through AdvisorDirect to transfer their accounts from TD Ameritrade or to establish brokerage or custody accounts at other custodians, except when required to do so. VCM's participation in AdvisorDirect does not diminish its duty to seek best execution of trades for client accounts.

VCM may also compensate third parties for client referrals. Under this arrangement, VCM pays a portion of the referred client's management fee earned by VCM to the referring party. The referral fee will be paid entirely by VCM and not the referred client. Any such arrangement complies with Rule 206(4)-3 under the Advisers Act. Each prospective client who is referred under such an arrangement receives a copy of this brochure and a separate written disclosure document disclosing the nature of the relationship between the solicitor and VCM, and the amount of compensation that will be paid by VCM to the solicitor. The solicitor is required to obtain the client's signature acknowledging receipt of VCM's disclosure brochure and the solicitor and referral disclosure statement. A conflict of interest exists between the solicitors' referral of clients to us and their receipt of fees for such referral and the conflict is fully disclosed to clients.

## **Custody**

### **Wealth Management Services**

Under Rule 206(4)-2 under the Advisers Act (the "Custody Rule"), VCM is deemed to have custody of client assets in certain circumstances where VCM is appointed investment advisor under discretionary agreements, or when clients maintain standing letters of authorization to move money under their agreements with qualified custodians. These assets under advisement are held by unaffiliated qualified custodians such as TD Ameritrade and Schwab. These qualified custodians provide clients with statements showing all trades, holdings and other transactions at least quarterly. VCM urges clients to compare the statements provided by their custodians or unaffiliated fund managers with the reports provided by VCM.

In cases where VCM is deemed to have custody, VCM engages a third-party unaffiliated auditor to conduct an annual surprise asset verification examination.

## **Private Funds**

In its capacity as the managing member of the VCM Private Funds and the Highland Funds, VCM is deemed to have custody of assets managed on a discretionary basis in those entities. In order to abide by the Custody Rule, these funds are audited annually by an independent public accountant and the audited financial statements are delivered to each investor within 120 days (or 180 days for “fund of funds”) of the fund’s fiscal year end. In addition, the third-party administrator for the VCM Private Funds and the Highland Funds distributes statements at least quarterly to each of the funds’ investors.

## **Investment Discretion**

### **Discretionary Trading Authority**

Generally, VCM is retained on a fully discretionary basis and is authorized to determine and direct execution of portfolio transactions pursuant to the terms of the investment management agreement and other documents executed between VCM and each client. The terms upon which VCM serves as an adviser are established at the time each client retains VCM as their investment manager. Unless otherwise set forth in writing between VCM and the client, VCM is not required to contact a client prior to transacting any business once such client executes these documents.

If a VCM client opts not to have some or all of its account assets managed on a discretionary basis, those assets must be identified at the onset of the relationship and will be held and reported upon as non-discretionary assets. VCM will not execute transactions involving a non-discretionary asset without first contacting the client and receiving the client’s explicit approval to move forward with each such transaction.

### **Limited Power of Attorney**

Clients who have granted discretionary trading authority to VCM grant a “limited power of attorney” to VCM over clients’ custodial account(s) for purposes of trading and fee deduction.

## **VCM Private Funds and the Highland Funds**

VCM generally has complete discretionary authority via the relevant organizational documents and/or advisory agreements to manage the funds’ investment portfolios, without any specific limitations. However, VCM does not exercise discretion over individual client accounts’ investments within the VCM Private Funds and the Highland Funds. Each client investing in the funds determines whether and how much to invest, and in the case of the VCM Private Funds, in which class(es) to participate.

## **Voting Client Securities**

VCM generally votes proxies for its clients on all matters when VCM has discretionary investment authority over the client’s account. VCM does not vote proxies for client accounts that are non-discretionary. When VCM clients retain authority and responsibility to vote proxies with respect to their investments, they will receive proxy information from their custodians and may contact VCM about a particular solicitation and receive assistance from VCM personnel.

When VCM votes proxies on a client’s behalf with respect to accounts over which VCM has discretionary

investment authority, VCM votes in accordance with its Proxy Voting Policy, a copy of which is available from our Chief Compliance Officer upon request. VCM's Proxy Voting Policy is based on the principle that proxies are voted in the best long-term economic interest of the client. VCM maintains records pertaining to its proxy voting as required under the Advisers Act. Clients may contact our Chief Compliance Officer for information pertaining to how VCM voted the client's proxies on any specific proxy issue. In addition, clients may inform VCM in writing that they want to vote one or more proxies themselves, and may also at any time instruct VCM to vote proxies per their direction by sending instructions in writing to the Chief Compliance Officer.

As noted under "Fees and Compensation" above, VCM may utilize Affiliated Funds (including mutual funds advised by VAM) as a component of a client's investment strategy. When VCM has voting authority with respect to proxies solicited by Affiliated Funds, it votes those proxies in accordance with VCM's Proxy Voting Policy. For VCM clients who own shares of Vivaldi Opportunities Fund, a NYSE-listed closed end Affiliated Fund, VCM will vote proxies only if and as directed by the client, and will not advise the client with respect to participating in any rights offering or other corporate action for that fund.

The VCM Private Funds invest predominantly in unaffiliated private funds rather than publicly traded securities, so VCM does not exercise proxy voting authority for these investments in the conventional sense. From time to time private fund managers seek consent from VCM and other investors in their funds. VCM's investment team will carefully evaluate all such proposals and seek to act in the affected fund's best interests. Similarly, VCM seeks to act in the funds' best interest in voting proxies for securities held by the Highland Funds.

## **Financial Information**

VCM has no financial commitment that impairs its ability to meet contractual or any other obligations to clients, and has not been the subject of a bankruptcy proceeding.