

**MERK INVESTMENTS LLC**

**PART 2A OF FORM ADV: FIRM BROCHURE**

**Merk Investments LLC**  
44 Montgomery St, #3730  
San Francisco, CA 04104  
[www.merkfunds.com](http://www.merkfunds.com)

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**This brochure provides information about the qualifications and business practices of Merk Investments LLC (“Merk Investments”). If you have any questions about the contents of this brochure, please contact us at (650) 323-4341 or [info@merkinvestments.com](mailto:info@merkinvestments.com). This information has not been approved or verified by the United States Securities and Exchange Commission (the “SEC”) or by any state securities authority.**

**Any reference to Merk Investments as a “registered investment adviser” does not imply a certain level of skill or training.**

**Additional information about Merk Investments is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

***Item 2: Material Changes***

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Merk Investments is filing this initial Form ADV Part 2A in connection with the commencement of offering advisory services to sophisticated investors through a privately offered pooled investment vehicle.

**Item 3: Table of Contents**

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#### ***Item 4: Advisory Business***

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##### **Item 4.A.**

Merk Investments LLC (“**Merk Investments**”), a Delaware limited liability company, is an investment adviser with its principal place of business in San Francisco, CA. Merk Investments was formed in December 2000 by Alexander “Axel” Merk, Managing Member, who is also the principal owner of Merk Investments (the “**Principal**”).

##### **Item 4.B.**

Merk Investments is an investment management firm that provides advisory services to investment companies registered under the Investment Company Act of 1940, as amended (“**Registered Funds**”), a U.S. listed exchange traded product (“**ETP**”), and to sophisticated investors through a privately offered pooled investment vehicle incorporated in Delaware (“**Private Fund**”). Collectively, the Registered Funds, ETPs and Private Funds are referred to as “**Pooled Vehicles**.” Merk Investments may also provide advisory services to high-net worth individuals, trusts, and institutional clients via separately managed accounts (“**Separate Accounts**” or “**Separate Account Clients**”). Collectively, Pooled Vehicles and Separate Accounts are referred to as “**Clients**.”

Merk Investments’ investment objective is to achieve superior risk-adjusted returns by seeking to deliver uncorrelated returns using alternative strategies that seek optimal profit potential within tailored investment objectives. Merk Investments provides investment advice on liquid global markets, including domestic and international equities, fixed income, commodities and currencies and their respective derivative markets, as described in Item 8 Methods of Analysis, Investment Strategies and Risk of Loss.

##### **Item 4.C.**

Merk Investments’ investment management services to ETP and Registered Fund investment vehicles are provided pursuant to the terms of the prospectus of each investment vehicle, and investors in ETPs and Registered Funds cannot obtain services tailored to their individual specific needs.

Merk Investment’s investment management and advisory services to a Private Fund are provided pursuant to the terms of a Limited Partnership Agreement and as disclosed in the fund’s offering documents (collectively, the “**Offering Documents**”), and investors or “**Limited Partners**” in Private Funds cannot obtain services tailored to their individual specific needs. In addition, Limited Partners may not impose restrictions on investing in certain securities or types of securities.

Separate Account clients may receive customized services based upon the return expectations, tolerance for risk and volatility, and the need for liquidity. Please refer to Item 8A for a description of the investment strategies utilized.

##### **Item 4.D.**

Merk Investments does not participate in a wrap fee program.

##### **Item 4.E.**

As of June 30, 2016 Merk Investments managed approximately \$165.8 million in regulatory assets under management on a discretionary basis, and approximately \$153.9 million in regulatory assets under

management on a non-discretionary basis.

## ***Item 5: Fees and Compensation***

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### **Item 5.A.**

#### **Management Fee**

For ETPs and Registered Funds, detailed information on the terms and conditions of fees payable to Merk Investments are disclosed in the relevant prospectus. Merk Investments will usually charge a management fee (typically 1% for discretionary assets and less for non-discretionary assets, on an annualized basis) calculated on each business day based on average net assets and payable monthly in arrears.

For the services that Merk Investments provides to Private Funds, Merk Investments usually receives a monthly management fee with respect to each Limited Partner equal to one-twelfth of 1% (1.0% per year) of the balance of that Limited Partner's capital account on the last day of each calendar month. Certain Limited Partners may receive Management Fee reductions from Merk Investments.

Merk Investments may cause Registered Funds to purchase interests in ETPs sponsored by Merk Investments; and may cause Private Funds and Separate Accounts to purchase interests in Registered Funds and ETPs managed by Merk Investments. In that case, unless agreed otherwise with the Client, Merk Investments receives two levels of management fees: one from the Registered Fund, Private Fund or Separate Account, and one from the ETPs or Registered Funds purchased. This conflict of interest may influence Merk Investments' judgment in selecting investments for a Registered Fund or Private Fund.

Management fees payable to Merk Investments for services provided to Separate Account Clients range from 1.00% to 2.00% per annum depending on the strategy, type of account, and other factors; lower fees or a fixed periodic dollar amount may also be agreed upon. Fees are payable monthly in arrears, unless agreed otherwise.

#### **Performance Allocation**

The General Partner of the Private Funds, Merk Capital Partners LP, an affiliate of Merk Investments (see Item 10.C below), receives a Performance Allocation with respect to each Limited Partner of a Private Fund of 20% of the amount by which profits (including realized and unrealized gains and losses) of the Private Fund partnership otherwise allocable to that Limited Partner in the applicable measurement period exceed that Limited Partner's Unrecouped Losses. The "Unrecouped Losses" of a Limited Partner are all losses allocated to that Limited Partner in a fiscal year reduced (but not below zero) by all profits allocated to that Limited Partner in that fiscal year or in any subsequent fiscal year. This is what is sometimes referred to as a "high water mark." The Performance Allocation is made with respect to each Limited Partner at the end of each fiscal year (and on withdrawal of funds by or distribution of funds to a Limited Partner during a fiscal year). Certain Limited Partners may receive Performance Allocation reductions from the General Partner.

Merk Investments may also charge certain Separate Account Clients a Performance Allocation fee, in compliance with Rule 205-3 promulgated under the Investment Advisers Act of 1940 (the "Advisers Act"), as amended, and all applicable laws relating to such a Performance Allocation fee. Performance Allocation fees will be 20% of profits, subject to a high water mark, but may be negotiable depending on the specific circumstances of a Separate Account client.

**Item 5.B.**

The custodian or administrator to Pooled Vehicles will deduct fees and compensation from Pooled Vehicle assets for advisory services due to Merk Investments as incurred and at the times described above under Item 5.A.

Separate Account Clients will be invoiced, or deductions will be made directly from client accounts, for advisory services due to Merk Investments as incurred and at the times described above under Item 5.A.

**Item 5.C.**Other Fees Earned and Expenses allocated by the Adviser

For Registered Funds, Merk Investments is obligated to pay all their expenses except certain administrative service fees, borrowing costs, taxes, brokerage costs, commissions, and extraordinary and non-recurring expenses and expenses that the Registered Funds are authorized to pay under Rule 12b-1. Investor class shares of Registered Funds are subject to 12b-1 distribution fees up to 0.25% of the average daily net assets of Investor class shares. Institutional class shares are not subject to 12b-1 distribution fees.

When Registered Funds invest in ETPs, shareholders bear their proportionate share of the fees and expenses of the ETP held by the fund, as well as their proportionate share of the Registered Fund's fees and expenses. Merk Investments waives the portion of its annual management fee, described above in Section 5.A., that is accrued from a Registered Fund's investments in an ETP sponsored by Merk Investments.

Private Funds bear all costs of its organization and operation, including all Private Fund trading costs and expenses (for example, brokerage commissions, expenses related to short sales, and clearing and settlement charges), all legal, accounting, tax, bookkeeping, professional, expert and consulting fees and expenses arising in connection with the Private Funds' business (including the fees and expenses of the administrator, the Private Funds' accountant and attorneys for Merk Investments and General Partner and certain research costs).

Separate Account Clients will incur brokerage and other transaction costs.

Please also see Item 12 for a description of brokerage practices.

**Item 5.D.**

Fees earned by Merk Investments for advisory and related services are payable by Clients monthly in arrears based on the net asset value of Client accounts. Other fee arrangements may be negotiated with Private Funds and Separate Account Clients.

**Item 5.E.**

Merk Investments is compensated solely for providing advisory services, and not for the sale of securities or other investment products, and mutual funds.

The Management Fees and Performance Allocations described above are structured to comply with Rule 205-3 under the Advisers Act and applicable state laws.

## ***Item 6: Performance-Based Fees and Side-by-Side Management***

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Merk Investments is entitled to receive a Performance Allocation for certain Clients (as outlined in Item 5.A). The Performance Allocation may provide a possible incentive for Merk Investments to make riskier or more speculative investments on behalf of a Client than those which would be recommended under a different fee arrangement. In addition, this arrangement may cause Clients to pay a greater expense than if such fees were not charged. Notwithstanding this potential incentive, Merk Investments will evaluate investments in a manner that it considers to be in the best interest of Clients.

In the future, to the extent that there may be differences in Merk Investments' compensation arrangements with different Clients, such circumstances could create an incentive for Merk Investments to manage Client portfolios so as to favor a portfolio that pays performance-based compensation over one that did not. Notwithstanding this conflict, Merk Investments will allocate transactions and opportunities among the Clients' accounts in a manner it believes to be equitable.

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

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Merk Investments provides discretionary investment advice to registered investment companies, grantor trusts, and to sophisticated investors through private investment funds. Merk Investments also provides advisory services to high-net worth individuals, trusts, and institutional clients via separately managed accounts. Purchasers of private investment funds generally must be (i) "accredited investors" (as defined in Regulation D under the Securities Act of 1933); and (ii) "qualified purchasers" (as defined in the Investment Company Act of 1940). Prospective private investment fund purchasers are encouraged to thoroughly review the offering documents which set forth all of the terms in detail.

The prospectus or other official offering materials for registered investment companies specifies minimum investment amounts. These generally range from \$1,000 for individual retirement accounts to \$250,000 for institutional investors such as investment advisers, financial institutions, corporations, trusts, estates and religious and charitable organizations. Under certain conditions, these minimums may be waived; or, for institutional investors, multiple accounts may be aggregated to meet the minimum.

The minimum investment required to invest in private investment funds is \$2 million. Merk Investments, in its sole discretion, may waive or reduce the minimum investment amount in certain circumstances.

The minimum investment required to invest in separately managed accounts is \$20 million. Merk Investments, in its sole discretion, may waive or reduce the minimum investment amount in certain circumstances.

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

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### **Item 8.A.**

Merk Investments provides investment advisory services regarding liquid global markets, including domestic and international equities, fixed income, commodities and currencies and their respective derivative markets. Some of Merk Investments' strategies focus on a sub-set, such as gold and currencies. General descriptions of Merk investments' investment strategies are included below. Certain strategies may

be available only in certain channels or through a purchase of shares of registered investment companies, exchange traded products, or private investment funds.

### **Gold Strategy**

The Gold Strategy seeks to track the price of physical gold by providing investors with an opportunity to invest in gold through shares in an exchange traded product (ETP) organized as a grantor trust, and to be able to take delivery of physical gold in exchange for their shares. The trust does not make use of derivatives and is not actively managed.

### **Currency Strategies**

Merk Investments advises strategies which provide exposure to currencies. Merk Investments may consider either or both quantitative and qualitative factors when making investment decisions for currency strategies. Quantitative factors include fundamental and technical analysis of currency and economic data, including but not limited to a country's gross domestic product or the central bank's benchmark interest rate. Qualitative include an analysis of monetary policies pursued by central banks and economic environments; a country's perceived political stability; the risk of government intervention in its financial markets; and proprietary analysis on the outlook of a country's currency.

#### **Absolute Return Currency Strategy**

The Absolute Return Currency Strategy seeks to create exposure to currencies by investing primarily in money market instruments and high quality debt securities denominated in a currency to which the strategy seeks exposure, or in a combination of U.S. dollar or foreign currency denominated securities and forward currency contracts that expose the strategy to such currencies. The primary exposure to currency will be to currencies of developed countries that, in the opinion of Merk Investments, have liquid currency markets.

In seeking to achieve positive absolute returns, the Adviser makes currency exposure allocations based on quantitative and qualitative analysis in the context of strategic and tactical considerations.

The Adviser considers factors that lead to gradual allocation changes over months as "strategic." In contrast, the Adviser considers factors that lead to allocation changes over shorter periods as "tactical."

The Adviser may consider quantitative factors to determine portfolio allocations. Quantitative factors that the Adviser may consider include fundamental and statistical technical analysis of currency, financial markets and economic data. Fundamental considerations may include a country's gross domestic product or the central bank's benchmark interest rate. Technical considerations may include the relative performance of currencies over time. Statistical analysis may include the use of probability theory and mathematical optimizations. Additionally, the Adviser may utilize statistical methods to manage overall portfolio risk.

Qualitative Analysis. Qualitative factors that the Adviser may consider include an analysis of monetary policies pursued by central banks and economic environments; a country's perceived political stability; the risk of government intervention in its financial markets; and proprietary analysis on the outlook of a country's currency. Additionally, the Adviser may utilize qualitative and quantitative analysis to manage overall portfolio risk.



## **Hard Currency Strategy**

The Hard Currency Strategy invests primarily in “hard currency” denominated investments composed of high quality, short-term debt instruments, including sovereign debt, and indirectly in gold and gold-related securities. Hard currencies are currencies of countries pursuing what Merk Investments believes to be “sound” monetary policy and gold. Sound monetary policy is defined by Merk Investments as providing an environment fostering long-term price stability. Merk Investments considers gold to be the only currency with intrinsic value and, as such, qualifies as a hard currency. To the extent that the strategy invests in gold, it will normally do so indirectly through U.S. listed exchange traded products (ETPs) that invest in gold bullion and through futures contracts. The strategy may invest in ETPs sponsored by Merk Investments or its affiliates

Merk Investments will determine currency allocations based on an analysis of monetary policies pursued by central banks and economic environments. Once this determination has been made, money market or other debt instruments will be selected to create a liquid portfolio of short duration and high credit quality. Merk Investments may adapt the currency allocations as its analysis of monetary policies and economic environments evolves.

## **Global Opportunity Strategy**

The Global Opportunity Strategy primarily invests in liquid global markets across all asset classes and security types, including, but not limited to, domestic and international equities, fixed income, commodities and currencies and their respective derivative markets. Securities can also include covered and uncovered put and call options, preferred stock, convertible securities, bonds and other fixed income securities, swaps, distressed debt, loans, futures, options on futures, money market interests and other securities and derivative instruments, including other investment funds managed by Merk Investments from which Merk Investments is also paid a management fee. See Item 5 regarding fees. The strategy engages in short selling, margin trading, hedging and other investment strategies, is unconstrained to a benchmark and pursues both strategic as well as tactical opportunities at varying degrees of leverage.

## **Item 8.B and Item 8.C.**

As with all investments, there is the risk that an investor in a strategy managed by Merk Investments could lose money in their investment account. These strategies are not intended to be a complete investment program but rather one component of a diversified investment portfolio. Many factors affect the net asset value and performance. The risks associated with Merk Investments’ investment strategies include, but are not necessarily limited to, those described below. Because each strategy is different, not all risks apply to each strategy, and the following is a summary of risks most applicable to the strategies. Investors in Registered Funds, ETPs and Private Funds should consult the prospectus or offering documents, as applicable, for their investment for more detailed explanations of the risks associated with their investment.

## **Risks Applicable to Strategies**

| <u>Strategy</u>          | <u>Principal Investment Risks</u>   |
|--------------------------|---|
| Gold                     | Gold Investment Risks   |
| Absolute Return Currency | Counterparty; Currency Exchange Rate; Currency Management Strategies; Derivatives; Fixed-Income Securities; Foreign Instruments; Forward Currency Contract; Futures Contract; Geographic Focus; Leverage; Liquidity; and Options. |

|                    |   |
|--------------------|---|
| Hard Currency      | Counterparty; Currency Exchange Rate; Currency Management Strategies; Derivatives; Exchange-Traded Products; Fixed-Income Securities; Focused Portfolio; Foreign Instruments; Forward Currency Contract; Futures Contract; Gold-Related Securities; Leverage; and Sovereign Debt.   |
| Global Opportunity | Concentration of Investments; Credit; Default of Counterparties, Brokers and Exchanges; Derivatives; Exchange-Traded Products; Forward Trading; Gold-Related Securities; Hedging; Interest Rate; Leverage; Liquidity; Non-U.S. Investments; Short Sales; Swaps, Options, Futures, Commodity Interests and Other Derivatives; Swaps and Other Securities-Linked Instruments. |

Concentration of Investments Risk. An account's investment portfolio (on account of size, investment strategy and other considerations) may be confined to the securities of relatively few issuers. The account is not required to maintain a minimum level of capital. If the account fails to raise substantial initial capital or incurs losses or withdrawals, it may not have sufficient funds to diversify its investments. There are no particular limits as to concentration in particular issuers or types of investments. If the account concentrates its investments in several, relatively large securities positions or industries relative to its capital, a loss in any one position or downturn in any one industry could reduce the account's performance materially.

Counterparty Risk. A counterparty to a derivative or other financial instrument entered into by Merk Investments may become bankrupt or otherwise fail to perform its obligations. An investment account may experience delays in obtaining recovery or obtain limited or no recovery in such circumstances.

Currency Exchange Rate Risk. Currency exchange rates may fluctuate significantly over short periods of time and can be unpredictably affected by political developments or government intervention. Changes in currency exchange rates may affect the U.S. dollar value of investments in an account, including foreign securities, forward currency contracts and cross currency forwards.

Currency Management Strategies Risk. Currency management strategies, including currency forwards and cross currency forwards, options on currencies, currency futures contracts, options on currency futures contracts, currency swaps, cross currency swaps, and cross-hedging, may substantially change an investor's exposure to currency exchange rates and could result in losses to investors if currencies do not perform as Merk Investments expects.

Default Risk of Counterparties, Brokers and Exchanges. The account will be exposed to the credit risk of the counterparties with which, or the brokers, dealers and exchanges through which, it deals, whether it engages in exchange-traded or off-exchange transactions. The account may be subject to risk of loss of its assets on deposit with a broker in the event of the broker's bankruptcy, the bankruptcy of any clearing broker through which the broker executes and clears transactions on behalf of the account, or the bankruptcy of an exchange clearing house. To the extent that the account invests in swaps, derivatives or synthetic instruments, or other over-the-counter transactions in these markets, the account may take credit risk with regard to parties with which it trades and also may bear the risk of settlement default.

Derivatives Risk. The risks of investments in derivatives, including swaps, options, futures contracts and options on futures contracts, include that derivatives may result in losses, which are potentially unlimited, and that partially or completely offset gains in portfolio positions. Derivative transactions may not be liquid. Many derivatives subject investors to Counterparty Risk.

Exchange-Traded Products Risk. The risks of investing in ETPs typically reflect the risks of the types of

instruments in which such ETPs invest, spanning a wide range of commodities, derivatives, and/or other securities designed to track the price, performance and dividend yield of a particular commodity, security, securities market index or sector of an index. When Merk Investments invests in ETPs, investment accounts bear their proportionate share of the fees and expenses of the ETP held, as well as their proportionate share of Merk Investments' fees and expenses. Shares of ETPs may trade at a premium or discount to their NAV. Merk Investments may invest investment account assets in ETPs that sponsored by Merk Investments. See Item 5 regarding fees.

Fixed-Income Securities Risk. Merk Investments may invest in fixed-income (debt) securities, which are generally subject to the following risks:

Credit Risk. The financial condition of an issuer of a fixed-income security may cause the issuer to default. The value of an account may change in response to changes in the credit ratings of securities. Investment risk and price volatility may increase as a security's credit rating declines.

Interest Rate Risk. The value of your investment may change in response to changes in interest rates. An increase in interest rates may cause a fall in the value of the fixed-income securities in which Merk Investments may invest. Given the historically low interest rate environment, risks associated with rising rates are heightened.

Focused Portfolio Risk. Merk Investments' portfolio investments may be more heavily weighted in one or more sectors or industries. Negative developments affecting those sectors or industries may result in greater market risk to investors than to a fund that is not weighted in those sectors or industries.

Foreign Instruments Risk. Foreign investments are subject to risks that include international trade, currency, political, regulatory and diplomatic risks, which may affect their value. Also, foreign instruments are subject to the risk that their market price may not reflect the issuer's condition because there is not sufficient publicly available information about the issuer. Government supervision and regulation of foreign stock exchanges, currency markets, trading systems and brokers may be less than in the U.S.

Forward Currency Contract Risk. Entering into forward currency transactions may generate profits or losses depending upon movements in the currencies in which the forward currency contract is denominated. The use of forward currency contracts subjects investment accounts to Counterparty Risk. Assets used as cover or held in an account cannot be sold while the position in the corresponding derivative is open, unless they are replaced with appropriate assets. As a result, the commitment of a large portion of an investment account's assets to cover or segregated could impede the account's ability to meet redemption requests or other current obligations.

Forward Trading. Forward contracts and options thereon are not traded on exchanges and are not standardized. Instead, banks and dealers act as principals in these markets, negotiating each transaction on an individual basis. Forward and "cash" trading is substantially unregulated; there are no limits on position sizes or daily price movements. The principals who deal in the forward markets are not required to continue to make markets in the currencies they trade and these markets can experience periods of illiquidity, sometimes of significant duration. There have been periods during which certain participants in these markets have refused to quote prices for certain currencies or commodities or have quoted prices with an unusually wide spread between the price at which they were prepared to buy and that at which they were prepared to sell. Disruptions can occur in any market in which the account trades due to unusually high trading volume, political intervention or other factors. Controls by governmental authorities might also limit an account's desired level of forward trading. Any such market illiquidity or disruption could adversely affect an account.

Futures Contract Risk. There may be an imperfect correlation between the changes in market value of the securities held by an investment account and the prices of futures contracts. Futures contracts may expose an investment account to Leverage Risk, as discussed below.

Geographic Focus Risk. An investment account may be particularly susceptible to economic, political or regulatory events affecting those countries or regions in which Merk Investments focuses its investments. Leverage Risk. Certain of Merk Investments' derivatives transactions may give rise to leverage, causing the investment account to be more volatile than if it had not been leveraged.

Gold Investment Risks. Investment in gold is subject to risks associated with factors that affect price of gold. The value of an investment in gold will fluctuate based on, and could be materially adversely effected by, the price of gold. This creates the potential for losses, regardless of the period of time that you hold the shares. Several factors may affect the price of gold and, as a result, the value of the shares, including the following:

- Global supply and demand, which is influenced by factors including: (1) forward selling by gold producers; (2) purchases made by gold producers to unwind gold hedge positions; (3) central bank purchases and sales; (4) production and cost levels in major gold-producing countries; and (5) new production projects;
- Investors' expectations regarding future inflation rates;
- Currency exchange rate volatility;
- Interest rate volatility; and
- Unexpected political, economic, global or regional incidents.

There is no assurance that gold will maintain its long-term value in terms of U.S. dollar value in the future. In the event that the price of gold declines, Merk Investments expects the value of investments in gold to decline proportionately.

Gold-Related Securities Risk. Investments in gold-related securities may be subject to greater volatility than investments in traditional securities. The value of gold-related securities may be affected by market movements and political, regulatory or other factors affecting the gold industry. Gold-related securities generate no interest or dividends, and the return from investments in gold-related securities will be derived solely from the price gains or losses from the commodity. Investments in gold and gold-related securities may have negative tax consequences for an investor.

Hedging. An account may use hedging strategies to attempt to control risk. Hedging strategies may not be effective in controlling risk, due to unexpected non-correlation (or even positive correlation) between the hedging instrument and the position being hedged. The account may not be able to hedge a particular position, which can result in undesired exposure to that position and may lead to liquidation of that position when it is disadvantageous to the account.

Leverage Risk. Leverage is created by borrowing on margin, engaging in short sales, entering into swaps and other derivative contracts and other leveraging strategies. Such leverage increases the risk of loss and volatility. In the stock market, "margin" refers to buying stock on credit. Margin customers are required to keep cash and securities on deposit with their brokers as collateral for their borrowings. As a result, a relatively small price movement in a security may result in immediate and substantial losses to an investment account. Thus any purchase of securities using leverage increases the risk and volatility of a portfolio and may result in losses that greatly exceed the amount invested. In addition, margin trading requires an account to pledge its securities as collateral. Margin calls or changes in margin requirements can require an account to pledge additional collateral or liquidate its holdings, which can force the account

to sell portfolio securities at substantial losses that it otherwise would not incur.

Liquidity Risk. Certain securities and derivatives traded by Merk Investments may be difficult to sell at the time and price Merk Investments would like. As a result, an investment account may have to hold these investments longer than it would like and may forego other investment opportunities. There is the possibility that an investment account may lose money or be prevented from realizing capital gains if it cannot sell a security at a particular time and price.

Non-U.S. Investments. Risks include, but are not limited to, less public information available regarding non-U.S. issuers, limited liquidity of non-U.S. securities and political risks associated with the countries in which non-U.S. securities are traded and the countries where non-U.S. issuers are located. These non-U.S. economies may differ unfavorably from the U.S. economy in gross national product growth, inflation rate, savings rate and capital reinvestment, resource self-sufficiency and balance of payments positions, and in other respects. Merk Investments may invest in securities of non-U.S. governments (or agencies or subdivisions thereof), and some or all of the foregoing considerations also may apply to those investments.

Developing Countries. The risks of non-U.S. investments typically are greater in less developed countries, sometimes referred to as emerging markets. For example, political and economic structures in these countries may be less established and may change rapidly. These countries also are more likely to experience high levels of inflation, deflation or currency devaluation, which can harm their economies and securities markets and increase volatility. Restrictions on currency trading that may be imposed by developing countries will have an adverse effect on the value of the securities of companies that trade or operate in such countries.

Political Risks. Many of the non-U.S. companies in which Merk Investments invests, directly or indirectly, may be particularly exposed to the risk of political change and governmental action. In some non-U.S. countries, there is the possibility of expropriation or confiscatory taxation, limitations on removing funds or other account assets, political or social instability, or diplomatic developments that could materially and adversely affect the value and marketability of an account's investments in those countries.

Non-U.S. Investment Limitations. Some of the countries in which Merk Investments invests, directly or indirectly, may have laws and regulations that currently preclude or severely restrict direct non-U.S. investment in securities of their companies. Indirect non-U.S. investment may, however, be permitted through investment funds that have been specifically authorized for that purpose. Because of the limited number of authorizations granted in such countries, however, units or shares in most of the investment funds authorized in those countries may at times trade at a substantial premium over the value of their underlying assets. There can be no certainty that these premiums will be maintained and if the restrictions on direct non-U.S. investment in the relevant country were significantly liberalized, premiums might be reduced, eliminated altogether or turned into a discount.

Non-U.S. securities Regulation. The securities of non-U.S. issuers held by Merk Investments generally are not registered under, nor are the issuers thereof subject to the reporting requirements of, U.S. securities laws and regulations. Accordingly, there may be less publicly available information about these securities and about the non-U.S. company or government issuing them or the board of trade clearing them than is available about a U.S. company, government entity or board of trade. Non-U.S. companies and boards of trade generally are not subject to accounting, auditing and financial reporting standards, practices and requirements comparable to those applicable to U.S. companies. Further, government supervision of stock exchanges, boards of trade, securities brokers and issuers of securities is generally less stringent than supervision in the U.S. The

investments also may be subject to withholding taxes imposed by the applicable country's taxing authority.

Limited Liquidity of Non-U.S. securities. Securities of some non-U.S. companies are less liquid and their prices are more volatile than securities of comparable U.S. companies. Investing in non-U.S. securities creates a greater risk of securities clearance and settlement problems.

Options Risk. The price of an option, which is a function of interest rates, volatility, dividends, the exercise price, stock price and other market factors, may change rapidly over time. Price valuations or market movements may not justify purchasing options on individual securities, stock indexes and ETFs, or, if purchased, the options may expire unexercised, causing an account to lose the premium paid for the option.

Short Sales Risk. A short sale results in a gain if the price of the securities sold short declines between the date of the short sale and the date on which securities are purchased to replace those borrowed. A short sale results in a loss if the price of the securities sold short increases. Any gain is decreased, and any loss is increased, by the amount of any payment, dividend or interest that an account may be required to pay with respect to the borrowed securities, offset (wholly or partly) by short interest credits. In a generally rising market, an account's short positions may be more likely to result in losses because securities sold short may be more likely to increase in value. A short sale involves a finite opportunity for appreciation, but a theoretically unlimited risk of loss.

Sovereign Debt Risk. Bonds issued by governments, sometimes referred to as "sovereign" debt, present risks not associated with investments in other types of bonds. The government or agency issuing the debt may be unable or unwilling to make interest payments and/or repay the principal owed. In such instance, an investor may have limited recourse against the issuing government or agency. In the past, some countries have refused to honor their payment obligations on issued bonds.

Swaps, Options, Futures, Commodity Interests and Other Derivatives Risk. Merk Investments trades in exchange-traded and over-the-counter derivatives, including but not limited to swaps, options, futures and other commodity interests, forwards and contracts for differences, options and forwards. Trading in these instruments is highly speculative and entails risks that are greater than those of investing in other securities. Prices of these instruments may be more volatile than prices of other securities. Merk Investments speculates on market fluctuations of such securities, and securities exchange indices while investing only a small percentage of the value of the securities or index underlying the contract, thus permitting a high degree of leverage. As a result, depending on the type of instrument, a relatively small change in the market price of the contract may result in a profit or loss that is high in proportion to an account's funds actually placed as initial collateral and may result in unquantifiable further loss exceeding any collateral deposited. These changes are extremely difficult to predict.

Swaps and Other Securities-Linked Instruments Risk. Merk Investments may use derivative instruments, such as swaps, contracts for difference, participation notes, equity swaps, and zero strike calls and warrants, to gain economic exposure (whether long or short) to a particular underlying security that an account cannot or does not want to own directly. Many of these derivative instruments are structured as contracts between the account and a counterparty. In a typical contract, an account deposits an amount of cash with its custodian (or broker, if legally permitted) that is equal to the selling price of the underlying security and an additional amount to serve as the initial collateral for a change in value of the underlying security. Thereafter, the account pays or receives cash or other assets from the broker or custodian based on the change in the value of the underlying security.

### ***Item 9: Disciplinary Information***

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Neither Merk Investments nor its supervised persons have reportable disciplinary events to disclose.

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

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#### **Item 10.A.**

Neither Merk Investments nor any of its management persons is currently registered or has an application pending to register as a broker-dealer or registered representative of a broker-dealer.

#### **Item 10.B.**

Merk Investments is registered with the National Futures Association (NFA) as a commodity pool operator. Axel Merk, Managing Member of Merk Investments, is registered with the NFA as an associated person of a commodity pool operator. Neither Merk Investments nor any of its management persons is registered or has an application pending to register as a futures commission merchant, a commodity trading advisor or an associated person of the foregoing entities.

#### **Item 10.C.**

Merk Investments provides advisory services to affiliated Client accounts including Registered Funds (mutual funds), ETPs (exchange traded products), and Private Funds. Certain Client accounts may invest in the same securities. When Merk Investments executes a transaction on behalf of more than one Client account, it is policy to aggregate trades whenever possible to achieve equal pricing across the Client accounts. Merk Investments may choose not to aggregate trades in avoidance of a perceived or actual conflict of interest, provided that Clients are treated fairly and equitably over time.

For Client accounts invested in certain strategies, Merk Investments may recommend affiliated ETPs or Registered Funds (“affiliated investments”) which remit Management Fees (see Item 5) to Merk Investments for advisory services provided. Merk Investments may waive Management Fees on the Client assets invested in affiliated investments, credit the Client account for the fees paid by the affiliated investment to Merk Investments, avoid or limit the payment of duplicative fees to Merk Investments through other means, or charge fees both at the affiliated investment level and Client account level.

Merk Investments is registered as a Commodity Pool Operator (CPO) with the CFTC because Merk Investments offers advice with respect to commodity interests (e.g., swaps, commodities, futures, options on futures) to certain Client accounts. Disclosure regarding Merk Investments’ services with respect to commodity interests is provided for regulatory informational purposes only and is not intended or provided for marketing or solicitation purposes.

An affiliate of Merk Investments, Merk Capital Partners LP, serves as the general partner to Private Funds. Merk Capital Partners LP receives the Performance Allocation discussed above in Item 5 and Item 6.

A Private Fund may enter into agreements, or “side letters,” with certain prospective or existing Limited Partners whereby such Limited Partners may be subject to terms and conditions that are more advantageous than those set forth in the offering memorandum for the applicable fund. This may include that the General

Partner and the Merk Investments waive or reduce the Management Fees and Performance Allocations for certain investors, employees and certain family members.

**Item 10.D.**

Merk Investments and its supervised persons do not recommend or select other investment advisers for Clients or have any business relationships with other investment advisers.

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

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**Item 11.A.**

Merk Investments has adopted a Code of Ethics (the “**Code**”) that will obligate Merk Investments and its related persons to put the interests of its Clients before their own interests and to act honestly and fairly in all respects in their dealings with Clients.

The Code of Ethics includes the following points:

- A statement of the standard of business conduct;
- Procedures for handling confidential information;
- Treatment of Material Non-Public Information;
- Personal Trading Policy where all employees are subject to strict reporting requirements regarding personal holdings and required to pre-clear any purchases or sales of securities through the Chief Compliance Officer;
- Employees are required to obtain prior approval from the Chief Compliance Officer before entering into any private securities transaction;
- Reporting and prior approval requirements for any Outside Business Activities;
- Limits on gifts and entertainment;
- Limits on political contributions;
- Employees must acknowledge in writing having received and read a copy of the Code; and
- Any exceptions to the above need prior approval of the Chief Compliance Officer.

A copy of Merk Investments’ Code is available to Clients and prospective Clients upon request.

**Item 11.B through Item 11.D.**

Merk Investments, as a fiduciary, endeavors to always make decisions in the best interest of its Clients if a conflict of interest arises.

For Client accounts invested in certain strategies, Merk Investments may recommend affiliated ETPs or Registered Funds (“affiliated investments”) which remit Management Fees (see Item 5) to Merk Investments for advisory services provided. Merk Investments may waive Management Fees on the Client assets invested in affiliated investments, credit the Client account for the fees paid by the affiliated investment to Merk Investments, avoid or limit the payment of duplicative fees to Merk Investments through other means, or charge fees both at the affiliated investment level and Client account level.

Employees, directors and officers of Merk Investments (“Supervised Persons”) are permitted to maintain personal brokerage accounts, subject to the Code of Ethics and its personal trading policy.



## ***Item 12: Brokerage Practices***

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### **Item 12.A.1.**

Merk Investments does not receive research or other products or services (known as “soft dollar benefits”) other than execution from a broker-dealer or a third party in connection with Client securities transactions.

### **Item 12.A.2.**

Merk Investments does not participate in selecting or recommending broker-dealers in exchange for client referrals.

### **Item 12.A.3.**

Directed brokerage is not applicable to Merk Investments.

### **Item 12.B.**

When Merk Investments must execute a transaction on behalf of more than one Client account, it is Merk Investments’ policy to aggregate trades whenever possible to achieve equal pricing across the Client accounts and to reduce transaction costs. Merk Investments may choose not to aggregate trades in avoidance of a perceived or actual conflict of interest, provided that Clients are treated fairly and equitably over time.

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

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### **Item 13.A. and 13.B.**

Merk Investments reviews each portfolio on an ongoing basis for conformity with investment style, asset allocation and changes to performance of individual securities. Reviews also include monitoring cash equivalent positions and other position limits, as well as settlement issues regarding transactions. Additionally, Merk Investments reviews accounts when it is notified of changes in Client objectives, guidelines or financial circumstances, among other factors, and also at times of Client addition or withdrawal of assets.

Various reviews are conducted by members of the Merk Investments’ investment management team (including portfolio managers and their delegates), operations team, and compliance department. Merk Investments also executes, in conjunction with the administrator or trustee to Clients’ accounts, as applicable, analysis of trades for Client accounts for compliance with accounts’ investment guidelines and trading restrictions.

Factors that may trigger an account review may include, but are not limited to (i) unexpected performance of individual securities or instruments invested in, (ii) changes in a Separate Account client’s financial profile as communicated to Merk Investments, and (iii) changes recommended in overall investment policy or strategy by Merk Investments’ portfolio managers.

### **Item 13.C.**

Merk Investments may furnish special reports to Board of Directors or Trustees of Pooled Vehicles if so

agreed upon. Merk Investments typically provides to Separate Account Clients periodic written reports which may include (a) current value; (b) recent and since inception performance; and (c) comparisons to benchmarks. Additionally, Merk Investments makes available through its website various information and reports regarding the strategies and investments it manages.

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

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##### **Item 14.A.**

Merk Investments does not receive economic benefits from any non-clients nor does it provide any investment advice or other advisory services to non-clients.

##### **Item 14.B.**

Merk Investments does not directly or indirectly compensate any person who is not a supervised person for client referrals, including third-party marketers or solicitors.

#### ***Item 15: Custody***

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Merk Investments does not have custody of any separately managed account, mutual fund, or exchange traded vehicle assets, but is deemed to have a form of custody for Private Funds due to Merk Investments' ability to deduct fees, even though indirectly through a Private Fund's administrator.

To confirm compliance with Rule 206(4)-2 under the Investment Advisers Act of 1940, as amended, Merk Investments has retained qualified custodians to maintain Client assets. Additionally, the custodian or the administrator, respectively, will provide at least quarterly reports to each Client or investor.

Clients and investors are encouraged to compare account statements from the custodian or administrator, as may be applicable, to those they may receive from Merk Investments.

#### ***Item 16: Investment Discretion***

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Merk Investments usually receives discretionary authority from the Client at the outset of an advisory relationship to select the identity and amount of securities to be bought or sold. Clients generally grant Merk Investments a power of attorney to invest through an investment advisory agreement. Merk Investments manages only the portion of each Client's assets for which an investment advisory agreement has been signed and will not provide advice on a Client's other assets. In all cases, such discretion is to be exercised in a manner consistent with the stated investment objectives, investment policies, limitations, and restrictions for the particular Client account. Investment guidelines and restrictions for a Client account must be provided to Merk Investments in writing.

For Private Funds, as investment adviser, Merk Investments has full discretion to invest Private Fund assets, as per agreement with them. Private Funds appoint Merk Capital Partners LP, an affiliate of Merk Investments, to act as their attorney-in-fact in order to carry out the provisions of a fund's partnership agreement.

For Registered Funds, Merk Investments' authority to trade securities is limited by certain federal securities and tax laws that, amongst others, require diversification of investments.

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

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Merk Investments exercises its voting authority with a goal of maintaining or enhancing shareholder value of the companies in which it has invested Client assets. Unless a Client specifically reserves the right, in writing, to vote its own proxies, Merk Investments will vote proxies in accordance with its proxy voting policy. Merk Investments is committed to minimizing conflicts of interest when voting proxies on behalf of Clients and strives to ensure that proxies are voted in the best interests of Clients, including investors in Pooled Vehicles. Merk Investments has adopted the following:

- For routine matters, as the quality and depth of management is a primary factor considered when investing in an issuer, the recommendation of the issuer's management on any issue will be given substantial weight. The position of the issuer's management will not be supported in any situation where Merk Investments assesses that it is not in the best interests of Clients and investors.
- For non-routine matters, such proposals should be examined on a case-by-case basis.
- Merk Investments may abstain from voting a proxy if such vote cannot be cast with commercially reasonable efforts or if Merk Investments deems it to be in the best interest of the Clients and investors to abstain from voting a proxy.
- Merk Investments may choose to abstain from voting for routine matters when it agrees with the recommendation of the issuer's management.

As a general rule, conflicts of interest will be resolved by Merk Investments voting in accordance with its proxy voting policy when: Merk Investments manages the account of a corporation or a pension fund sponsored by a corporation in which Clients of Merk Investments also own stock; an employee or a member of his/her immediate family is on the Board of Directors or a member of senior management of the company that is the issuer of securities held in a Client's account; or Merk Investments has a material relationship with a corporation whose securities are the subject of the proxy.

Clients that wish to obtain information on how specific proxies were voted, or a copy of Merk Investments' proxy voting policy, may contact the Chief Compliance Officer.

### ***Item 18: Financial Information***

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#### **Item 18.A.**

Not Applicable.

#### **Item 18.B.**

There are no conditions that impair Merk Investments' ability to meet its contractual and fiduciary commitment to the Client accounts.

**Item 18.C.**

Merk Investments has not been the subject of a bankruptcy petition at any time during the past ten years.

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

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Not Applicable.