CONVERGENCE

OPTIMAL PERFORMANCE

Overview of Final Form ADV Changes

August 2016

Summary of Key Changes

Amendments to Form ADV

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PLEASE NOTE THAT THIS REPRESENTS A SUMMARY OF KEY CHANGES THAT CONVERGENCE BELIEVES ARE MATERIAL TO THE WAY AN ADVISOR WILL BE REQUIRED TO FILE BEGINNING IN OCTOBER 2017.

FOR A FULL AND COMPLETE DESCRIPTION OF THE SEC'S FINAL RULING AND OTHER CHANGES INCLUDING UPDATES TO RECORDKEEPING RULES, ITS GLOSSARY AND OTHER TECHNICAL AMENDMENTS TO THE ADVISORS ACT PLEASE GO TO THE FOLLOWING LINK:

https://www.sec.gov/news/whatsnew/2016/wn082516.shtml

You can find attachments within the link titled:

Final Rule: Form ADV and Investment Advisers Act Rules (17 CFR Parts 275; 279; Release No.: IA-4509; File No.: S7-09-15; RIN 3235-AL75); see also Appendix A: Form ADV: General Instructions, Appendix B: Form ADV: Instructions for Part 1A,Appendix C: Form ADV: Glossary of Terms, Appendix D: Form ADV: Part 1A.

Amendments to Form ADV

1. Information Regarding Separately Managed Accounts
    a. Amendments to Item 5 of Part 1A and Section 5 of Schedule D

Item 5 of Part 1A and Section 5 of Schedule D currently require advisers to provide information about their advisory business including percentages of types of clients and assets managed for those clients. We had proposed to collect information specifically about separately managed accounts, including types of assets held, and the use of derivatives and borrowings in the accounts.

We are adopting the amendments to Item 5 of Part 1A and Section 5 of Schedule D largely as proposed, with some modifications in response to comments we received, as discussed below. We are amending Item 5 of Part 1A and Section 5 of Schedule D to require advisers to provide information on an aggregate level regarding separately managed accounts that they manage.[11] Advisers will be required to report information about the types of assets held and the use of derivatives and borrowings in separately managed accounts. Advisers that report that they have regulatory assets under management attributable to separately managed accounts in response to new Item 5.K.(1) of Part 1A will be required to complete new Section 5.K.(1) of Schedule D, and may be required to complete new Sections 5.K.(2) and 5.K.(3) of Schedule D regarding those accounts.

b. Section 5.K.(1) of Schedule D

In Section 5.K.(1) of Schedule D advisers will be required to report the approximate percentage of separately managed account regulatory assets under management that are invested in twelve broad asset categories, modified from the ten that were proposed in response to comments received and discussed below. As proposed, advisers with at least $10 billion in regulatory assets under management attributable to separately managed accounts will report, on an annual basis, both mid-year and end of year[12] percentages while advisers with less than $10 billion in regulatory assets under management attributable to separately managed accounts will report only end of year percentages. As we stated in the Proposing Release, we believe this information will allow us to better monitor this segment of the investment advisory industry and identify advisers that specialize in particular asset classes. With respect to the categories of investments listed in Section 5.K.(1), we proposed to require advisers to report the approximate percentage of separately managed account regulatory assets under management invested in ten broad asset categories.

Asset Type Mid-year End of Year _____%

(i) Exchange-Traded Equity Securities
(ii) Non Exchange-Traded Equity Securities
(iii) U.S. Government/Agency Bonds
(iv) U.S. State and Local Bonds
(v) Sovereign Bonds
(vi) Investment Grade Corporate Bonds
(vii) Non-Investment Grade Corporate Bonds
(viii) Derivatives
(ix) Securities Issued by Registered Investment Companies or Business Development Companies
(x) Securities Issued by Pooled Investment Vehicles (other than Registered Investment Companies or Business Development Companies)

(xi) Cash and Cash Equivalents
(xii) Other

Generally describe any assets included in "Other"_______________________________

c. Section 5.K.(2) of Schedule D

We are also adopting amendments to add Section 5.K.(2) of Schedule D to Form ADV to require advisers to separately managed accounts to report information regarding the use of borrowings and derivatives in those accounts with modifications from the proposal in response to commenters. These amendments are designed to provide data to assist our staff in identifying and monitoring the use of borrowings and derivatives exposures in separately managed accounts as part of the staff's risk assessment and monitoring programs. Some commenters supported our proposal for the collection of that data. However, as discussed below, several other commenters expressed concern about the proposed reporting thresholds, the public disclosure of certain information, the use of gross notional metrics and the burden associated with reporting this information. The specific gross notional metrics used in Section 5.K.(2) are "gross notional value" and "gross notional exposure," as proposed. The calculation of gross notional exposure includes borrowings and the gross notional value of derivatives. The definition of "gross notional value" specifies how derivatives are measured when determining an account's gross notional exposure.

As proposed, advisers with at least $150 million but less than $10 billion in regulatory assets under management attributable to separately managed accounts would have been required to annually report in Section 5.K.(2)(b) the number of accounts and average borrowings that corresponded to ranges of net asset values and gross notional exposures, as of the date the adviser used to calculate its regulatory assets under management for purposes of the adviser's annual updating amendment. Advisers with at least $10 billion in regulatory assets under management attributable to separately managed accounts would have been required to annually report in Section 5.K.(2)(a) the number of accounts, average borrowings, and average derivatives exposures across six categories of derivatives, based on the same ranges of net asset values and gross notional exposures in Section 5.K.(2)(b), as of the date used by the adviser to calculate its regulatory assets under management for purposes of its annual updating amendment, and six months before that date.

Advisers with at least $500 million but less than $10 billion in separately managed account regulatory assets under management will be required to report on Section 5.K.(2)(b) the amount of separately managed account regulatory assets under management and the dollar amount (rather than the proposed average amount) of borrowings attributable to those assets that correspond to three levels of gross notional exposures rather than four levels as proposed. Advisers with at least $10 billion in separately managed account regulatory assets under management will be required to report on Section 5.K.(2)(a) the information required in Section 5.K.(2)(b) as well as the derivative exposures across the same six derivatives categories that were proposed. Also as proposed, advisers may limit their reporting for both (a) and (b) to individual accounts of at least $10 million.34 Another change we are making to Section 5.K.(2) in response to commenters is to base the reporting of borrowings and derivatives on regulatory assets under management in separately managed accounts, rather than net asset value as proposed. One commenter noted that advisers do not currently characterize their individual client accounts according to net asset values.

Finally, we are also revising the proposal in ways that should both alleviate concerns about confidentiality, which we discuss more fully below, and simplify reporting of separately managed account information. First, we reduced the number of categories of gross notional exposure that we proposed in the charts. As proposed, Section 5.K.(2) included four categories of gross notional exposure by which accounts and borrowings were reported. This has been reduced to three categories of gross notional exposure: less than 10%, 10 - 149% and 150% or more. In addition to reducing the number of categories from four to three, we changed the highest threshold from 200% or more to 150% or more. After consideration of comments received regarding the potential burdens of providing this information, we believe that the use of three categories instead of four and changing the highest threshold from 200% or more to 150% or more will reduce the reporting burden on advisers while providing us with sufficient information regarding the use of derivatives and borrowings by investment advisers in separately managed accounts. In addition, we believe that these modifications provide less granular information than proposed, thereby mitigating some concerns commenters raised regarding confidentiality. We also modified Section 5.K.(2) to remove reporting of the number of separately managed accounts. As proposed, Section 5.K.(2) would have required advisers to report the number of accounts that corresponded to the accounts' net asset value and gross notional exposure. Section 5.K.(2) (a) and (b) now require reporting of regulatory assets under management based on ranges of gross notional exposure of accounts.

d. Section 5.K.(3) of Schedule D

We are amending Form ADV to require advisers to identify any custodians that account for at least ten percent of separately managed account regulatory assets under management, and the amount of the adviser's regulatory assets under management attributable to separately managed accounts held at the custodian.49 This information will allow our examination staff to identify advisers whose clients use the same custodian in the event, for example, a concern is raised about a particular custodian. As we discussed in the Proposing Release, similar disclosures are required for custodians to pooled investment vehicles50 and registered investment companies.

e. Public Disclosure of Separately Managed Account Information

We revised Item 5.D., which lists the number of advisory clients in categories, to include a "fewer than 5 clients" column. We also have modified Section 5.K.(2) to remove reporting of the number of accounts. As proposed, Section 5.K.(2) would have required reporting of the number of accounts that correspond to the accounts' net asset value and gross notional exposure. As adopted, Section 5.K.(2)(a) and (b) will require reporting solely by ranges of gross notional exposure of accounts.68 We believe that these changes mitigate the risk of any client-specific information being disclosed in Item 5.D. and Sections 5.K.(1) and (2).

2. Additional Information Regarding Investment Advisers

In addition to the amendments outlined above regarding separately managed accounts, we are adopting, largely as proposed, several new questions and amending existing questions on Form ADV regarding identifying information, an adviser's advisory business, and affiliations. As discussed in the Proposing Release, these items were developed through our staff's experience in examining

and monitoring investment advisers, and are designed to enhance our understanding and oversight of investment advisers and to assist our staff in its risk-based examination program.

a. Additional Identifying Information

We are adopting several amendments to Item 1 of Part 1A of Form ADV as proposed to improve certain identifying information that we obtain about advisers. Item 1 currently requires an adviser to provide a Central Index Key number ("CIK Number") in Item 1.N. only if the adviser is a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934.82 We are removing this question from Item 1.N. and adding a question to Item 1.D. that requires an adviser to provide all of its CIK
Numbers if it has one or more such numbers assigned, regardless of public reporting company status.

As we explained in the Proposing Release, requiring registrants to provide all of their assigned CIK Numbers, if any, will improve our staff's ability to use and coordinate Form ADV information with information from other sources. The commenter who weighed in on the reporting of CIK Numbers did not object to this amendment, which we are adopting as proposed. Item 1.I. of Part 1A of Form ADV currently asks whether an adviser has one or more websites, and Section 1.I. of Schedule D requests the addresses of each website.
We are amending Item 1.I. largely as proposed to also ask whether the adviser has one or more accounts on social media platforms, such as Twitter, Facebook or LinkedIn, and requesting the address of each of the adviser's social media pages in addition to the address of each of the adviser's websites in Section 1.I. of Schedule D.86 As discussed in the Proposing Release, our staff may use this information to help prepare for examinations of investment advisers and compare information that advisers disseminate across different social media platforms, as well as to identify and monitor new platforms. Current and prospective clients may use this information to learn more about advisers and make more informed decisions regarding the selection of advisers.

We are amending Item 1.F. of Part 1A of Form ADV and Section 1.F. of Schedule D largely as proposed to expand the information provided about an adviser's offices other than its principal office and place of business. We currently require an adviser to provide contact and other information about its principal office and place of business, and, if an adviser conducts advisory activities from more than one location, about its largest five offices in terms of number of employees.102 In order to help
Commission examination staff learn more about an investment adviser's business and identify locations to conduct examinations, we are now requiring that advisers provide us with the total number of offices at which they conduct investment advisory business and provide information in Schedule D about their 25 largest offices in terms of number of employees. As discussed in the Proposing Release, we chose 25 offices as the number to be reported because it will provide a complete listing of offices for the vast majority of investment advisers, and provide valuable information about the main business locations for the few advisers that have a very large number of offices.104 In addition to providing contact information for the 25 largest offices in terms of number of employees, we are amending Section 1.F. of Schedule D as proposed to require advisers to report each office's CRD branch number (if applicable) and the number of employees who perform advisory functions from each office, identify from a list of securities-related activities the business activities conducted from each office, and describe any other investment-related business conducted from each office. This information will help our staff assess risk, because it provides a

better understanding of an investment adviser's operations and the nature of activities conducted in its top 25 offices. This information also will assist our staff in assessing offices that conduct a combination of activities.

Item 1.J. of Form ADV currently requires each adviser to provide the name and contact information for the adviser's chief compliance officer. We proposed amending Item 1.J. to require an adviser to report whether its chief compliance officer is compensated or employed by any person other than the adviser (or a related person of the adviser) for providing chief compliance officer services to the adviser, and if so, to report the name and IRS Employer Identification Number (if any) of that other person. We are adopting the amendments to Item 1.J. largely as proposed, but in addition to related persons of the adviser, as discussed below, advisers will not be required to disclose the identity of the other person compensating or employing the chief compliance officer if that other person is an investment company registered under the Investment Company Act of 1940 advised by the adviser. As discussed in the Proposing Release, our examination staff has observed a wide spectrum of both quality and effectiveness of outsourced chief compliance officers and firms. Identifying information for these third-party service providers, like others on Form ADV, will allow us to identify all advisers relying on a particular service provider and could be used to improve our ability to assess potential risks.

We are amending Item 1.O. as proposed to require advisers with assets of $1 billion or more to report their assets within three ranges: (1) $1 billion to less than $10 billion; (2) $10 billion to less than $50 billion; and (3) $50 billion or more.131 We added Item 1.O. in 2011 in connection with the Dodd-Frank Act's132 requirements concerning certain incentive-based compensation arrangements. Advisers are currently required to check a box to indicate if they have assets of $1 billion or more. Requiring advisers to report their assets within one of the three specified ranges will provide more precise data for use in Commission rulemaking arising from ongoing Dodd-Frank Act implementation.

b. Additional Information About Advisory Business

In addition to the amendments to Item 5 regarding separately managed accounts discussed above, we are adopting a number of other amendments to Item 5. Item 5currently requires an adviser to provide approximate ranges for three data points concerning the adviser's business – the number of advisory clients, the types of advisory clients, and regulatory assets under management attributable to client types. As proposed, we are amending these items to require an adviser to report the number of clients and amount of regulatory assets under management attributable to each category of clients as of the date the adviser determines its regulatory assets under management. As we discussed in the Proposing Release, replacing ranges with more precise information will provide more accurate information about investment advisers and will significantly enhance our ability to analyze data across investment advisers because providing actual numbers of clients and regulatory assets under management will allow us to see the scale and concentration of assets by client type. It will also allow us to determine the regulatory assets under management attributable to separately managed accounts. We believe that the information needed for providing the number of clients and amount of regulatory assets under management by client type should be readily available to advisers because advisers are producing this data to answer the current iterations of these questions on Form ADV and advisers typically base their advisory fees on client assets under management. We also are adding

to Item 5 as proposed a requirement for advisers to report the number of clients for whom they provided advisory services but do not have regulatory assets under management in order to obtain a more complete understanding of each adviser's advisory business. As we explained in the Proposing Release, this information will assist in our risk assessment process and increase the effectiveness of our examinations.

Section 5.G.(3) of Schedule D currently requires advisers to report the SEC File Number for registered investment companies and business development companies that they advise. Largely as proposed, we are adding to Section 5.G.(3) a requirement that advisers report the regulatory assets under management of all parallel managed accounts related to a registered investment company (or series thereof) or business development company that they advise. As described in the Proposing Release, this information will permit our staff to assess the accounts and consider how an adviser manages conflicts of interest between parallel managed accounts and registered investment companies or business development companies advised by the adviser. This information also will show the extent of any shift in assets between parallel managed accounts and registered investment companies or business development companies.

We are amending Item 5, largely as proposed, to obtain additional information concerning wrap fee programs. Item 5.I. of Part 1A currently requires an adviser to indicate whether it serves as a sponsor of or portfolio manager for a wrap fee program. We are amending Item 5.I. to ask whether the adviser participates in a wrap fee program, and if so, the total amount of regulatory assets under management attributable to acting as a sponsor to or portfolio manager for a wrap fee program. Section 5.I.(2) of Schedule D currently requires an adviser to list the name and sponsor of each wrap fee program for which the adviser serves as portfolio manager. We are amending Section 5.I.(2), as proposed, to add questions that require an adviser to provide any SEC File Number and CRD Number for sponsors to those wrap fee programs.

As discussed in the Proposing Release, this information will help us better understand a particular adviser's business and assist in our risk assessment and examination process by making it easier for our staff to identify the extent to which the firm acts as sponsor or portfolio manager of wrap fee programs and collect information across investment advisers involved in a particular wrap fee program

c. Additional Information About Financial Industry Affiliations and Private Fund Reporting

Part 1A, Section 7.A. of Schedule D requires information on an adviser's financial industry affiliations and Section 7.B.(1) of Schedule D requires information on private funds managed by the adviser. We are adopting as proposed amendments to Sections 7.A. and 7.B.(1) of Schedule D that require an adviser to provide identifying numbers (i.e., Public Company Accounting Oversight Board ("PCAOB")-assigned numbers and CIK Numbers188) in response to two questions to allow us to better compare information across data sets and understand the relationships of advisers to other financial service providers.

We are adding a question to Section 7.B.(1) of Schedule D to require an adviser to a private fund that qualifies for the exclusion from the definition of investment company under section 3(c)(1) of the Investment Company Act of 1940 (a "3(c)(1) fund") to report whether it limits sales of the fund to qualified clients, as defined in rule 205-3 under the Advisers Act.191we are limiting the question to 3(c)(1) funds because each investor in a 3(c)(7) fund is required to meet the higher "qualified purchaser" standard.195 Second,.

We are revising the question to require a simple yes or no response as to whether the adviser limits sales of a fund to qualified clients instead of requiring advisers to report the percentage of ownership of the fund by qualified clients.

3. Umbrella Registration

We are adopting, as proposed, amendments to Form ADV that codify umbrella registration for certain advisers to private funds. We are adopting the amendments today because we believe that umbrella registration should be made available to those private fund advisers that are registered with us and operate a single advisory business through multiple legal entities. Umbrella registration is not mandatory, but we believe it will simplify the registration process for these advisers, and provide additional and more consistent data about, and create a clearer picture of, groups of private fund advisers that operate a single advisory business through multiple legal entities. The amendments also will allow for greater comparability across private fund advisers

The conditions we are adopting today are the same as the conditions set forth in the staff's guidance that many investment advisers have relied on since 2012 (except that the staff's guidance also included disclosure conditions for Form ADV, the substance of which is covered elsewhere in this Release). The conditions are as follows:

1. The filing adviser and each relying adviser advise only private funds and clients in separately managed accounts that are qualified clients (as defined in rule 205-3 under the Advisers Act) and are otherwise eligible to invest in the private funds advised by the filing adviser or a relying adviser and whose accounts pursue investment objectives and strategies that are substantially similar or otherwise related to those private funds;

2. The filing adviser has its principal office and place of business in the United States and, therefore, all of the substantive provisions of the Advisers Act and the rules thereunder apply to the filing adviser's and each relying adviser's dealings with each of its clients, regardless of whether any client or the filing adviser or relying adviser providing the advice is a United States person.

3. Each relying adviser, its employees and the persons acting on its behalf are subject to the filing adviser's supervision and control and, therefore, each relying adviser, its employees and the persons acting on its behalf are "persons associated with" the filing adviser (as defined in section 202(a)(17) of the Advisers Act);

4. The advisory activities of each relying adviser are subject to the Advisers Act and the rules thereunder, and each relying adviser is subject to examination by the Commission; and

5. The filing adviser and each relying adviser operate under a single code of ethics adopted in accordance with rule 204A-1 under the Advisers Act and a single set of written policies and procedures adopted and implemented in accordance with rule 206(4)-(7) under the Advisers Act and

administered by a single chief compliance officer in accordance with that rule. The conditions are designed to limit eligibility for umbrella registration to groups of private fund advisers that operate as a single advisory business. For purposes of umbrella registration, we consider the following factors as indicia of a single advisory business: commonality of advisory services and clients; a consistent application of the Advisers Act and the rules thereunder to all advisers in the business; and a unified compliance program. The conditions that we are adopting today are designed to demonstrate these factors. Condition 1 limits eligibility for umbrella registration to private fund advisers with a commonality of advisory services and clients. Conditions 2 and 4 are designed to provide assurance that our staff has access to and can readily examine the filing and relying advisers and that the Advisers Act and the rules thereunder fully apply to all advisers under the umbrella registration and clients of those advisers. Conditions 3 and 5 are designed to provide assurance that the filing and relying advisers are subject to a unified compliance program. Based on our experience, we believe that the conditions, when taken together, are a strong indication of the existence of a single private fund advisory business operating through the use of multiple legal entities.

In addition, we are amending the General Instructions as proposed to provide advisers using umbrella registration directions on completing Form ADV for the filing adviser and each relying adviser, including details for filing umbrella registration requests and the timing of filings and amendments in connection with an umbrella registration. To satisfy the requirements of Form ADV while using umbrella registration, the filing adviser is required to file, and update as required, a single Form ADV (Parts 1 and 2) that relates to, and includes all information concerning, the filing adviser and each relying adviser, and must include this same information in any other reports or filings it must make under the Advisers Act or the rules thereunder (e.g., Form PF). The revisions to the form's Instructions and Form ADV further specify those questions that should be answered solely with respect to the filing adviser and those that require the filing adviser to answer on behalf of itself and its relying adviser(s).

Additionally, we are amending the Glossary as proposed to add the following three terms: (i) "filing adviser;"212 (ii) "relying adviser;" and (iii) "umbrella registration." We also are adopting as proposed a new schedule to Part 1A – Schedule R – that must be filed for each relying adviser.215 Schedule R requires identifying information, basis for SEC registration, and ownership information about each relying adviser, some of which was already filed by an adviser relying on the staff guidance.216 This new schedule consolidates in one location information for each relying adviser and addresses the problem the staff faced in its guidance that resulted in information regarding relying advisers being submitted in response to a number of different items on the Form, in ways not consistent across advisers, due to the fact that Form ADV was not designed to accommodate umbrella registration.

We believe that certain information that we are requiring (such as mailing address and basis for registration) is the same for nearly all relying advisers, and the filing adviser can check a box indicating that the mailing address of the relying advisers is the same as that of the filing adviser. Finally, we are adding, as proposed, a new question to Schedule D that requires advisers to identify the filing advisers and relying advisers that manage or sponsor private funds reported on Form ADV. This information will allow us to identify the specific adviser managing the private fund reported on Form ADV if it is part of an umbrella registration. We believe that this information will help us better understand the management of private funds, will provide information to contact relying advisers, and will help us better understand the relationship between relying advisers and filing advisers

4. Clarifying, Technical and Other Amendments to Form ADV

a. Amendments to Item 2

Item 2.A. of Part 1A of Form ADV requires an adviser to select the basis upon which it is eligible to register with the Commission, and Item 2.A.(9) includes as a basis that the adviser is eligible for registration because it is a "newly formed adviser" relying on rule 203A-2(c) because it expects to be eligible for SEC registration within 120 days. Section 2.A.(9) of Schedule D is entitled "Newly Formed Adviser" and requests the adviser to make certain representations. As noted in the Proposing Release, our staff has received questions about whether the exemption from the prohibition on Commission registration contained in rule 203A-2(c) under the Advisers Act applies only to entities that have been "newly formed," i.e., newly created as corporate or other legal entities. It does not only apply to newly created entities and therefore, as proposed, we are deleting the phrase "newly formed adviser" from Item 2.A.(9) and Section 2.A.(9) of Schedule D. Section 2.A.(9) will be renamed "Investment Adviser Expecting to be Eligible for Commission Registration within 120 Days."

b. Amendments to Item 4

Item 4 of Part 1A of Form ADV addresses successions of investment advisers, and the Instructions to Item 4 provide that a new organization has been created under certain circumstances, including if the adviser has changed its structure or legal status (e.g., form of organization or state of incorporation). As noted in the Proposing Release, our staff frequently receives questions from investment advisers regarding this item and, as proposed, we are adding to Item 4 and Section 4 of Schedule D text that is currently contained in the Instructions to Item 4 that succeeding to the business of a registered investment adviser includes, for example, a change of structure or legal status (e.g., form of organization or state of incorporation).

c. Amendments to Item 7

Item 7 of Part 1A of Form ADV and corresponding sections of Schedule D require advisers to report information about their financial industry affiliations and the private funds they advise. We are adopting several technical amendments to Item 7. As proposed, we are revising Item 7.A., which requires advisers to check whether their related persons are within certain categories of the financial industry, to clarify that advisers should not disclose in response to this item that some of their employees perform investment advisory functions or are registered representatives of a broker-dealer, because this information is required to be reported on Items 5.B.(1) and 5.B.(2) of Part 1A, respectively. Items 5.B.(1) and 5.B.(2) request information about an adviser's employees. Adding this text to Form ADV should assist filers in filling out the form as well as provide more accurate data to us and the general public.

Item 7.B. of Part 1A of Form ADV asks whether the adviser serves as adviser to any private fund. Section 7.B.(1) of Schedule D requires advisers to provide information about the private funds they manage. We are adding text to Item 7.B. clarifying that Section 7.B.(1) of Schedule D should not be completed if another SEC-registered adviser or SEC exempt reporting adviser reports the

information required by Section 7.B.(1) of Schedule D. Currently the instructions only refer to another adviser. We are also adopting, as proposed, several amendments to Section 7.B.(1) of Schedule D. Question 8 of Section 7.B.(1) currently asks whether the private fund is a "fund of funds," and if it is, whether the private fund invests in funds managed by the adviser or a related person of the adviser. Below those two questions there is a note informing advisers when they should answer yes to the first question regarding whether the private fund is a "fund of funds." We are moving the note to directly after Question 8.(a).252 We believe this change will assist filers in answering Question 8.

Question 10 of Section 7.B.(1) of Schedule D asks the adviser to identify the category of the private fund. As proposed, we are deleting text in Question 10 that directs advisers to refer to the underlying funds of a fund of funds when selecting the type of fund, in order to reconcile differences with Form PF, which permits advisers to disregard any private fund's equity investments in other private funds. Question 19 of Section 7.B.(1) of Schedule D asks whether the adviser's clients are solicited to invest in the private fund. We are adding text to Question 19, as proposed, to make clear that the adviser should not consider feeder funds as clients of the adviser to a private fund when answering whether the adviser's clients are solicited to invest in the private fund. As noted in the Proposing Release, this is a common question that our staff receives and the intent of Question 19 is not to capture affiliated feeder funds. Question 21 of Section 7.B.(1) of Schedule D asks whether the private fund relies on an exemption from registration of its securities under Regulation D of the Securities Act of 1933 and Question 22 asks for the private fund's Form D file number. We are adopting a clarifying revision to Question 21 as proposed to ask if the private fund has ever relied on an exemption from registration of its securities under Regulation D, in order to better reflect the intention of the Question.255 The current Question 21, if answered in the negative, would not require the adviser to provide the private fund's Form D file number in Question 22, meaning we would not receive Form D file numbers in the event there was past reliance on Regulation D.

We are adopting revisions to Question 23.(a)(2) as proposed. Currently, this question requires an adviser to check a box to indicate whether the private fund's financial statements are prepared in accordance with U.S. generally accepted accounting principles ("GAAP"). We are adding text instructing advisers that they are required to answer Question 23.(a)(2) only if they answer "yes" to Question 23.(a)(1), which asks whether the private fund's financial statements are subject to an annual audit. This revision will clarify when an adviser is actually required to answer Question 23.(a)(2). We are also revising Question 23.(g) as proposed. The question currently asks whether the private fund's audited financial statements are distributed to the private fund's investors. We are adding "for the most recently completed fiscal year" to clarify the question. In addition, we are revising Question 23.(h) as proposed. This question currently asks whether the report prepared by the auditing firm contains an unqualified opinion.

We are revising the question, as proposed, to ask whether all of the reports prepared by the auditing firm since the date of the adviser's last annual updating amendment contain unqualified opinions. Finally, as proposed, we are adding Question 25.(g), which requests the legal entity identifier, if any, for a private fund custodian that is not a broker-dealer, or that is a broker-dealer but does not have

an SEC registration number. The legal entity identifier is a unique identifier associated with a single entity and is intended to provide a uniform international standard for identifying parties to financial transactions. Furthermore, the reporting of legal entity identifier information on Form ADV facilitates the ability of investors and the Commission to link the data reported with data from other filings or sources that is reported elsewhere as legal entity identifiers become more widely used by Amended Form ADV, Part 1A, Section 7.B.(1) of Schedule D, regulators and the financial industry. This information will help our examination staff more readily identify the use of particular custodians by private funds.

d. Amendments to Item 8

Based on inquiries from filers, we are adopting the proposed amendments to Item 8 with a modification to clarify that newly-formed advisers should answer questions in the item based on the types of participation and interest they expect to engage in during the next year. In the Proposing Release, we did not specify that the instruction was for newly-formed advisers, and commenters expressed concern that the proposal would make Item 8 the only section in Part 1A requesting forward-looking information, and were concerned about the difficulty around gauging the likelihood of future events and the possibility for "false positives." We agree and, as adopted here, we have updated the Item to address commenters' concerns. Item 8.B (2) of Part 1A of Form ADV currently asks whether the adviser or any related person of the adviser recommends the purchase of securities to advisory clients for which the adviser or any related person of the adviser serves as underwriter, general or managing partner, or purchaser representative. The current wording has caused confusion regarding the treatment of purchaser representatives.
As proposed, we are rewording the question to ask whether the adviser or any related person of the adviser recommends to advisory clients or acts as a purchaser representative for advisory clients with respect to the purchase of securities for which the adviser or any related person of the adviser serves as underwriter or general or managing partner. As noted in the Proposing Release, this edit is designed to clarify that the question applies to any related person who recommends to advisory clients or acts as a purchaser representative for advisory clients with respect to the purchase of securities for which the adviser or any related person of the adviser serves as underwriter or general or managing partner. Item 8.H. of Part 1A of Form ADV asks whether the adviser or any related person of the adviser, directly or indirectly, compensates any person for client referrals.

We are revising Item 8.H. as proposed to break the question into two parts to increase our understanding of compensation for client referrals. Revised Item 8.H.(1) will cover compensation to persons other than employees for client referrals.264 Revised Item 8.H.(2) will cover compensation to employees, in addition to employees' regular salaries, for obtaining clients for the firm. Item 8.I. asks whether the adviser or any related person of the adviser directly or indirectly receives compensation from any person other than the adviser or related person of the adviser for client referrals. We are also adding text to Item 8.I., as proposed, to clarify that advisers should not include the regular salary that the adviser pays to an employee in responding to this item.266

e. Amendments to Section 9.C. of Schedule D

Section 9.C. of Schedule D requests information about independent public accountants that perform surprise examinations in connection with the Advisers Act custody rule, rule 206(4)-2. We are adopting two changes to Section 9.C. of Schedule D as proposed. First, we are adding text requiring an adviser to provide the PCAOB assigned number of the adviser's independent public accountant. This will improve our staff's ability to cross-reference information submitted through other systems and evaluate compliance with the custody rule. Section 9.C.(6) currently requires advisers to report whether any report prepared by an independent public accountant that audited a pooled investment vehicle or examined internal controls contained an unqualified opinion. We are amending Section 9.C.(6) in a manner similar to Section 7.B.(1) of Schedule D, Question 23.(h) as described above to provide clarity to filers. Accordingly, the question will now ask whether all of the reports prepared by the independent public accountant since the date of the last annual updating amendment have contained unqualified opinions.

f. Amendments to Disclosure Reporting Pages

Item 11 of Part 1A of Form ADV requires registered advisers and exempt reporting advisers to provide information about their disciplinary history and the disciplinary history of their advisory affiliates. Those advisers who report an event for purposes of Item 11 are directed to complete a Disclosure Reporting Page ("DRP") to provide the details of the event. DRPs can be removed from Form ADV under certain circumstances, including when "the adviser is registered or applying for registration with the SEC and the event was resolved in the adviser's or advisory affiliate's favor." As proposed, we are amending this text in each DRP to add "or reporting as an exempt reporting adviser with the SEC" after "applying for registration with the SEC" to clarify that both registered and exempt reporting advisers may remove a DRP from their Form ADV record if a criminal, regulatory or civil judicial action was resolved in the adviser's (or advisory affiliate's) favor.273 As discussed in the Proposing Release, these amendments will make disciplinary reporting uniform across registered and exempt reporting advisers, consistent with requiring exempt reporting advisers to report disciplinary events on Form ADV.