May 16, 2008

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Securities and Exchange Commission
100 F St. NE
Washington, DC 20549

REF: File Number S7-10-00
Proposed amendments to Form ADV

Thank you for the opportunity to comment regarding the proposed changes to the format of Form ADV and associated rules. I am submitting comments because I have experience with this topic in several capacities. First, during my nine years in practice as a state-registered investment adviser, I have filed all disclosures with my home state of California using the SEC's Form ADV. I believe the amendments should consider that by number, the vast majority of those using Form ADV will be smaller practitioners such as myself...not just those registered with the SEC, but also the many firms registered with the states. Second, as a licensed attorney I've assessed the disclosure issues of my own practice, as well as the practices of several other registered investment advisers. Third, as an active participant in industry discussions through a variety of forums, I've heard many questions and comments over the years from practitioners. And last but not least, by the time these changes are implemented it appears likely that I'll be registered with the SEC.

With that preface here are my specific comments:

NARRATIVE FORMAT/ITEM 8 - METHODS OF ANALYSIS, ETC.
I strongly support the change to a narrative format, because I believe it offers advisers a much better opportunity to describe our practices. This part of the form has always seemed disconnected from the distinctions that differentiate advisory practices, especially with regard to investment strategies, so a lot of the interesting material ended up on the narrative continuation sheets. Removing the often-irrelevant multiple choice questions is a logical step that should increase the "information density" of the overall filing.

That said, it would be helpful if there was more guidance regarding the "risk disclosure" considered appropriate in Item 8. It has always been curious to me that the required disclosures on Form ADV, regarding investment adivers, do not reflect the body of academic research regarding investment returns and risk.There is a mention of two specific items -- how frequent trading can affect investment performance, and how practices handle cash balances -- but why are those singled out?

One approach would be to avoid any specific disclosures, with a truly narrative approach left to each adviser's discretion based on their own beliefs about

investment strategy and risk. But if the form is to get into details, I believe that alongside "frequent trading" some discussion should be required about:

1. Whether an advisory firm employs active or passive management strategies (or both),
2. the risks associated with active management, both in taxable and tax-deferred accounts, and
3. the methods by which the firm addresses the risks unique to active management.

Personally I believe that this would significantly enhance the level of disclosure to consumers, by putting at the forefront of the disclosure document a topic that has long been at the forefront of investment strategy decisions. Frankly, Form ADV is behind the times, because it fails to require any discussion what appears to be a crucial strategy decision for an investor. If trading and cash balances must be addressed, why not this?

I recognize that active management can play a role in an investment portfolio and that there are differences of opinion regarding this topic. But I believe that this fundamental issue rarely sees daylight in disclosure documents that purport to disclose the important issues about a given investment adviser. As a result, investors have a very low awareness of the risks that result from active management strategies. It's perfectly acceptable for clients to make these choices, but wouldn't it be better when amending the "required disclosures" to incorporate this important topic?

I recognize also that doing this would require that the SEC in effect take a position on the active/passive management debate, in the same way it has for "frequent trading" as a specific disclosure item. So again -- alternatively, the marketplace for services could determine what is important to clients and this disclosure remain optional. In that scheme, though, I don't see a reason to home in on "frequent trading" as a special disclosure topic. After all, some very benign bond-management strategies involve quite a bit of turnover.

Finally, it may be that different disclosure levels are appropriate when dealing with individual investors, rather than institutional investors. One weakness of Form ADV is that it is used by such a wide range of advisory firms that standardized disclosures are not necessarily appropriate; what pension fund manager is unfamiliar with the active/passive issue? This may suggest that open-narrative format is ultimately the best approach to this Item, rather than including any specific topical areas regarding "risk."

ITEM 11 - PERSONAL TRADING

Proposed Item 11 requires certain disclosures about personal trading. Like many advisers I routinely purchase the same securities for personal accounts that I recommend to clients. Overwhelmingly, clients are encouraged by this rather

than seeing it as a conflict of interest. I do have lengthy disclosures regarding this topic in both my advisory agreement and Form ADV, but these get little interest from clients, because the likelihood of harm to clients is so small for a smaller advisory firm whose trade sizes have negligible market impact.

It would be helpful if this disclosure item included some type of de minimus standard whereby smaller advisers did not have the same disclosure requirements as firms whose trade sizes raise valid market-impact issues. A possible standard to use, which would be consistent with other regulations, might be the same $100 million level associated with Form 13F filings, perhaps requiring the adviser to factor in all related-party accounts within that AUM figure. This would recognize that the trading activity of smaller advisers is of less "public interest" than those who have greater liquidity at their disposal. And from a compliance perspective it allows us advisers to see $100 million as a level where additional disclosures and attention to potential conflicts is required. (And if that $100 million asset level has no relevance, why is it used for 13F filings?)

ITEM 12 - BROKERAGE PRACTICES
It would be helpful if this item included more specific guidelines for the required "soft dollar" disclosures by fee-only advisory firms, if indeed there are any. The guidance seems to be written with different practice types in mind. I have always found this to be a difficult topic, given that I do not really make any choices regarding soft-dollars, such as using a certain broker-dealer to obtain research for free. Like many firms of my type, I hold most client assets through one of several firms that provide such services to advisers who have no B/D affiliation (Fidelity, Schwab, TD Ameritrade being the big three). Whether I hold one account or 100 with a given firm, the services provided are arguably the same. The research is very limited in scope, and in fact isn't much different from what is freely available elsewhere on the Internet -- I rarely if ever even look at it. Similarly, services like client management and trading software, or even a newsletter about compliance issues, stretch the definition of "soft dollars." But these appear to be disclosure items.

I don't think these are analogous to "more expensive trades that pay for research services" but they appear to meet the formal definition. To the extent soft-dollar compensation is a focus of the Commission, it would be helpful to practices like mine to describe our disclosure requirements in greater detail. Does a quarterly compliance newsletter posted on the web site of our custodian constitute, in some way, "soft dollars"? Does a trading platform that also holds client-management data, such as names and addresses? Does it matter if we make use of the services provided?

Should this item include guidance more tailored to fee-only firms, a disclosure regarding the minimum AUM required for an advisory firm to use their preferred custodian(s) could be appropriate, because such minimums present a potential conflict of interest. An adviser who risks not meeting the minimum arguably has

an incentive to gather more assets under management, to avail themselves of a certain custodial platform. Such a conflict could be relevant, for example, when a client is deciding whether to pay off a mortgage, or invest the money instead through the adviser.

ITEM 15 - CUSTODY
Increasingly, clients seem to be requesting less and less paperwork from their custodians. It is now possible for a client to voluntarily suppress mailed account statements, in favor of electronic copies that may not even be downloaded or reviewed. The adviser has no way of knowing what the client actually reads.

While this is really no different from a paper statement that may be thrown in the shredder unopened, it would be helpful if there was some guidance regarding the effect (if any) on the custody disclosures if a client elects to suppress monthly statements, or receive them only in electronic format or by email notice. Specifically, does such an election mean that the adviser can no longer rely on the "qualified custodian delivery" as a way of avoiding "custody"?

ITEM 17 - PROXY VOTING
For a smaller advisory firm, few required tasks are as time-consuming and unproductive as voting proxies for insignificant holdings. But clients in general have no interest in receiving these materials or casting votes themselves.

On my desk right now are a half-dozen proxies for largely uncontested director elections and appointments of accounting firms; in none is the voting share even one one-thousandth of one percent of eligible voting shares. Is this a good use of my time -- from the perspective of one of my clients? My feedback from clients is that they can't believe there's a requirement for me to devote attention to this task.

I believe this guidance and disclosure requirement should be amended to include a de minimus standard for firms that are voting such insignificant holdings that it is arguably a breach of fiduciary duty to waste time on the task, instead of doing more productive work for clients. Perhaps, as with my comment on personal-trading disclosures, the $100 million threshhold could be used as it is with Form 13F filings. At that level the expectation would be that an advisory firm have detailed proxy voting policies and actually vote all shares. Below that level a firm could simply disclose whether it votes proxies for clients, but without any detail required regarding the policies for doing so.

I would generalize this further to remove the proxy-voting requirement entirely for advisory firms serving primarily individuals, while keeping the topic as a disclosure item. If clients demand advisers who vote proxies according to formal guidelines, they'll vote with their feet by hiring advisory firms that provide this service. It would very much surprise me if retail clients express such preferences, though I understand these issues can have greater importance for certain

instiutional clients, and with very large advisory firms voting substantial blocks of shares.

ITEM 18 - FINANCIAL INFORMATION
I believe that this disclosure item could be expanded beyond the requirement to disclose bankruptcy petitions within the prior 10 years. Financial insecurity is itself a potential conflict of interest because it puts an adviser in a position where they need to squeeze revenue from clients. Some of the more egregious examples I've seen of improper investment recommendations involved clients whose financial advisors were on the brink of financial failure.

Consistent with the narrative format, I suggest that the form require prompt disclosure of any financial circumstances that create a potential conflict of interest with clients, and leave that open to interpretation. But a prior bankruptcy isn't necessarily the most relevant criteria; a pending foreclosure or adverse judgment is arguably much more relevant to the future solvency of the adviser, and the potential for a conflict of interest.

ANNUAL DELIVERY OF PART II
The proposed amendments would require an annual delivery, rather than an annual offer, of form ADV. I respectfully request that this requirement be reconsidered, in light of client interest in this document and the alternative methods by which it could be made available.

Though the current requirement is an annual offer, I have always offered Form ADV once per quarter. After more than 30 of these "offers" over my nearly nine years in practice, I have never had a single client request a copy of the form. In fact it takes some effort to encourage new clients to review the document at all, when delivered at the inception of a relationship. This suggests a lower level of actual consumer interest in this document than the rule contemplates.

Given the low level of actual interest, I believe that the new requirement is overkill, if the goal is enhancing distribution. I suspect most Forms ADV would wind up in the trash along with other unsolicited mail. But I do believe that greater access would lead to more interest from clients.

I propose instead that our annual delivery requirement be considered met if we email, or send in a hard copy mailing, a hyperlink to the document's location on the SEC web site -- rather than the full document itself. Ideally, the SEC should make this hyperlink take a very simple format such as www.sec.gov/advisers/CRDNUMBER. This would dramatically lower the cost of document delivery, while making best use of the now all-electronic filing. Really, what's the point of filing electronically if delivery is still in paper format?

Perhaps electronic delivery of the annual copy of Form ADV will be considered adequate, as it is with initial delivery if the client so elects. Still, why not build a

mechanism for making this delivery into the SEC web site? The system is 99% of the way there and it's as simple as allowing us to deliver the document via this method. Without that, I'll be archiving (as is required) dozens of emails every year with identical copies of Form ADV in PDF format...as will thousands of other advisers.

If the default for this document is going to be paper format, I suggest (with tongue only slightly in cheek) that an environmental impact statement be prepared in connection with this rule change. The proposed amendments note in their preface that 20 million investors use the services of registered investment advisers. With even a 10-page Form ADV, which would be short, that's 200 million pieces of paper, plus envelopes, plus cover correspondence, mailed annually. Given the low level of consumer interest in this document, I question whether such an expenditure of paper fiber is in the public interest.

Note also that this delivery technique does away with any of the decisions regarding the "sticker". Advisers could fulfill the delivery requirement by providing a hyperlink to their filing, which would always be current. My belief is that clients increasingly prefer this format for document delivery and review, and that making this the default method of delivery would enhance disclosure.

FORMAT FOR FILING FORM ADV
Comments were requested regarding advisers' access to PDF conversion software. I license and regularly use Adobe Acrobat, not just for Form ADV but for most of my document management (including account applications with custodians). I strongly prefer PDF format for Form ADV submission. Even for those who do not license the full version of Acrobat, it would be very easy for the SEC to create a standardized, fill-in version of this form, with unlimited continuation sheets to allow the flexibility required with the new narrative format. It would surprise me if there is an advisory firm out there that does not at least have access to the Adobe Acrobat reader, which is all that is required to use fill-in forms; it is arguably the most standardized document format in existence today.

XBRL, in contrast, is a complete mystery to me, and would require additional resources (i.e. a service provider) to manage filings in that format. For a small practitioner that would create an additional compliance burden.

Again, thank you for the opportunity to submit these comments, I look forward to reading the analysis and final rule making.

Respectfully Submitted,
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