

The following is the Form ADV Part 1A instructions for Item 5, excerpted from the SEC website:

<http://www.sec.gov/about/forms/formadv-instructions.pdf>

## 5. Item 5: Information About Your Advisory Business

a. **Newly-Formed Advisers:** Several questions in Item 5 that ask about your advisory business assume that you have been operating your advisory business for some time. Your response to these questions should reflect your current advisory business (i.e., at the time you file your Form ADV), with the following exceptions:

- base your response to Item 5.E. on the types of compensation you expect to accept;
- base your response to Item 5.G. and Item 5.J. on the types of advisory services you expect to provide during the next year; and
- skip Item 5.H.

b. **Item 5.F: Calculating Your Regulatory Assets Under Management.** In determining the amount of your regulatory assets under management, include the securities portfolios for which you provide continuous and regular supervisory or management services as of the date of filing this Form ADV.

(1) **Securities Portfolios.** An account is a securities portfolio if at least 50% of the total value of the account consists of securities. For purposes of this 50% test, you may treat cash and cash equivalents (i.e., bank deposits, certificates of deposit, bankers acceptances, and similar bank instruments) as securities. You must include securities portfolios that are:

- (a) your family or proprietary accounts;
- (b) accounts for which you receive no compensation for your services; and
- (c) accounts of *clients* who are not *United States persons*.

For purposes of this definition, treat all of the assets of a *private fund* as a securities portfolio, regardless of the nature of such assets. For accounts of *private funds*, moreover, include in the securities portfolio any uncalled commitment pursuant to which a *person* is obligated to acquire an interest in, or make a capital contribution to, the *private fund*.

(2) **Value of Portfolio.** Include the entire value of each securities portfolio for which you provide continuous and regular supervisory or management services. If you provide continuous and regular supervisory or management services for only a portion of a securities portfolio, include as regulatory assets under management only that portion of the securities portfolio for which you provide such services.

Exclude, for example, the portion of an account:

- (a) under management by another *person*; or
- (b) that consists of real estate or businesses whose operations you “manage” on behalf of a *client* but not as an investment.

Do not deduct any outstanding indebtedness or other accrued but unpaid liabilities.

(3) **Continuous and Regular Supervisory or Management Services.**

**General Criteria.** You provide continuous and regular supervisory or management services with respect to an account if:

- (a) you have *discretionary authority* over and provide ongoing supervisory or management services with respect to the account; or
- (b) you do not have *discretionary authority* over the account, but you have ongoing responsibility to select or make recommendations, based upon the needs of the *client*, as to specific securities or other investments the account may purchase or sell and, if such recommendations are accepted by the *client*, you are responsible for arranging or effecting the purchase or sale.

**Factors.** You should consider the following factors in evaluating whether you provide continuous and regular supervisory or management services to an account.

(a) **Terms of the advisory contract.** If you agree in an advisory contract to provide ongoing management services, this suggests that you provide these services for the account. Other provisions in the contract, or your actual management practices, however, may suggest otherwise.

(b) **Form of compensation.** If you are compensated based on the average value of the *client's* assets you manage over a specified period of time, that suggests that you provide continuous and regular supervisory or management services for the account. If you receive compensation in a manner similar to either of the following, that suggests you do not provide continuous and regular supervisory or management services for the account --

(i) you are compensated based upon the time spent with a *client* during a *client* visit; or

(ii) you are paid a retainer based on a percentage of assets covered by a financial plan.

(c) **Management practices.** The extent to which you actively manage assets or provide advice bears on whether the services you provide are continuous and regular supervisory or management services. The fact that you make infrequent trades (e.g., based on a “buy and hold” strategy) does not mean your services are not “continuous and regular.”

**Examples.** You may provide continuous and regular supervisory or management services for an account if you:

- (a) have *discretionary authority* to allocate *client* assets among various mutual funds;
- (b) do not have *discretionary authority*, but provide the same allocation services, and satisfy the criteria set forth in Instruction 5.b.(3);
- (c) allocate assets among other managers (a “manager of managers”), but only if you have *discretionary authority* to hire and fire managers and reallocate assets among them; or
- (d) you are a broker-dealer and treat the account as a brokerage account, but only if you have *discretionary authority* over the account.

You do not provide continuous and regular supervisory or management services for an account if you:

- (a) provide market timing recommendations (i.e., to buy or sell), but have no ongoing management responsibilities;
- (b) provide only *impersonal investment advice* (e.g., market newsletters);
- (c) make an initial asset allocation, without continuous and regular monitoring and reallocation; or
- (d) provide advice on an intermittent or periodic basis (such as upon *client* request, in response to a market event, or on a specific date (e.g., the account is reviewed and adjusted quarterly)).

(4) **Value of Regulatory Assets Under Management.** Determine your regulatory assets under management based on the current market value of the assets as determined within 90 days prior to the date of filing this Form

ADV. Determine market value using the same method you used to report account values to *clients* or to calculate fees for investment advisory services.

In the case of a *private fund*, determine the current market value (or fair value) of the *private fund*'s assets and the contractual amount of any uncalled commitment pursuant to which a person is obligated to acquire an interest in, or make a capital contribution to, the *private fund*.

(5) **Example.** This is an example of the method of determining whether an account of a *client* other than a *private fund* may be included as regulatory assets under management.

The *client's* portfolio consists of the following:

\$ 6,000,000 stocks and bonds

\$ 1,000,000 cash and cash equivalents

\$ 3,000,000 non-securities (collectibles, commodities, real estate, etc.)

\$10,000,000 Total Assets

**First, is the account a securities portfolio?** The account is a securities portfolio because securities as well as cash and cash equivalents (which you have chosen to include as securities) (\$6,000,000 + \$1,000,000 = \$7,000,000) comprise at least 50% of the value of the account (here, 70%). (See Instruction 5.b(1)).

**Second, does the account receive continuous and regular supervisory or management services?** The entire account is managed on a *discretionary* basis and is provided ongoing supervisory and management services, and therefore receives continuous and regular supervisory or management services. (See Instruction 5.b.(3)).

**Third, what is the entire value of the account?** The entire value of the account (\$10,000,000) is included in the calculation of the adviser's total regulatory assets under management.