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November 1, 2013

Ms. Elizabeth Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Office of Financial Research September 2013 Report on Asset Management and Financial Stability

Ladies and Gentlemen:

The Money Management Institute ("MMI") welcomes the invitation of the Securities and Exchange Commission ("SEC") to comment on the September 2013 report issued by the Office of Financial Research ("OFR") regarding Asset Management and Financial Stability (the "Report"), which was commissioned by the Financial Stability Oversight Council ("FSOC").

MMI is the national organization for the advisory solutions industry, representing a broad spectrum of investment advisers that manage separate accounts, and sponsors of investment consulting programs. MMI was organized in 1997 to serve as a forum for the industry's leaders to address common concerns, discuss industry issues and work together to better serve investors. Our membership is comprised of firms that offer comprehensive financial consulting services to individual investors, foundations, retirement plans and trusts; related professional portfolio management firms; and firms that provide long-term services to sponsor, manager and vendor firms. MMI is a leader for the advisory solutions industry on regulatory and legislative issues.

As a key representative of separate account sponsors and managers, we would like to address the Report's conclusions about the systemic risks associated with, and need for increased reporting of data regarding, separate account managers and privately-owned asset management firms. Although the Report stops short of concluding that separate account managers and private asset management firms pose a risk to the financial stability of the United States, or specifically recommending that FSOC adopt new data reporting regulations, the Report appears to conclude that asset management firms and their separate accounts pose sufficient threats to financial stability to warrant increased systemic-based regulation and data reporting requirements. While we support the goal of financial stability, we do not believe that the Report has presented sufficient evidence that asset management firms (including privately-owned asset management firms) and separate accounts pose threats to financial stability or that reporting of additional data would be justified. As we will describe in greater detail below, the Report mischaracterizes and oversimplifies the role and structure of asset management firms, fails to provide compelling evidence that private (or for that matter public) asset management firms or separate accounts are potential sources of financial instability, and overlooks many factors that can mitigate the risks posed by asset management firms and separate accounts. We also are concerned that the Report was drafted to support a pre-conceived conclusion—that asset managers pose systemic risks and should be subject to greater regulatory oversight—rather than present an accurate, balanced analysis of the risks posed by asset managers.

In addition, the Report provides little detail on what would be the appropriate scope of any new reporting requirements, how reported data would be utilized, or whether FSOC would be the most appropriate regulatory body to implement such data reporting requirements. Further, the Report does not address the potentially significant burdens or costs that would be associated with new data reporting requirements. Given these limitations, we urge OFR–and FSOC–to continue to engage market participants and other regulators, including the SEC, before taking any regulatory action based on this Report.

Finally, we believe that the 30 day comment period is too brief given the complexity of the issues raised in the Report. We would appreciate an extension of the comment period for this Report in order to provide affected parties with additional time to comment in greater detail.

I. <u>There is Insufficient Evidence That Asset Management Firms or Separate Accounts Pose a Threat to Financial Stability</u>

The Report fails to present sufficient evidence that asset management firms or separate accounts pose a threat to financial stability. In this regard, the Report's analysis has several material deficiencies:

- *Misconceptions about the nature and structure of asset management firms.* The Report fails to fully appreciate the highly diverse and decentralized nature of asset managers' businesses and the fact that asset managers primarily act in an agency capacity. The

Report cites misleading data regarding the large size of firms' assets under management in relation to their balance sheets, while failing to actually analyze the financial health of the asset management firms. The Report also overlooks existing regulatory requirements regarding, and oversight of, risk controls when it suggests that asset management firms may have inadequate risk controls.

- *A misunderstanding of the actual financial system risks posed by asset management firms.* While the Report identifies risk factors that may be present in investment vehicles managed by asset managers, the Report fails to adequately explain how these risk factors could spread from an asset manager's client portfolios to the asset manager itself, or to the rest of the financial industry, or present relevant persuasive evidence regarding the likelihood of any such occurrences.
- *An overstatement of the risks posed by separate accounts.* The Report suggests that additional data is needed regarding separate accounts, but does not present any evidence that separate accounts have ever been sources of systemic risk or financial instability or will be in the future. Rather, the Report appears to conclude that additional data is needed simply because separate accounts are managed by large asset management firms, without taking into account that OFR already has access to significant regulatory data collected and maintained by the SEC and the federal bank regulatory agencies that supervise asset managers.
- *A failure to take into account factors that mitigate the risks presented by asset management firms and separate accounts.* In analyzing the risks that asset management firms and separate accounts pose to financial stability, the Report often fails to take into account, or only mentions in passing, important mitigating factors that can reduce the risks posed by asset management firms.

A. Nature and Structure of Asset Management Firms

1. Agency Capacity of Asset Managers

Although the Report notes that most asset managers primarily act in an agency capacity and do not incur liabilities in connection with their investments on behalf of clients, the Report often loses sight of or minimizes this key distinction. For example, in the section in which the Report analyzes asset managers as sources of risk,[1] the Report hypothesizes that in the event of financial stress affecting a small number of a firm's clients, a firm's counterparties "might not distinguish among exposures to the firm and its funds, and therefore could take risk-mitigating

[1] Report at 18-20.

actions" against the firm as a whole.[2] The Report does not cite any examples of this occurring, or any evidence suggesting that it is likely to occur.

In the same section, the Report presents data showing that the largest dedicated asset managers have small book values in relation to the sizes of their assets under management.[3] This data is apparently presented to demonstrate that asset managers pose systemic risk because they would have insufficient assets to guarantee clients against losses during stress conditions. Regardless of whether an asset manager has sufficient assets to protect its clients against losses during stress conditions, we strongly disagree with the Report's suggestion that this fact contributes to systemic risk and financial instability. Rather, the fact that investors, including highly sophisticated investors, knowingly invest in vehicles and accounts managed by firms that might not indemnify such vehicles and accounts against investment losses demonstrates that market participants understand the agency capacity of asset managers and do not rely on asset managers to protect them against investment losses. In turn, because investors generally do not rely on asset managers to protect them against investment losses, investors have a strong incentive to scrutinize the asset managers and the investments made by them, and to assess the risk that those investments will lose value, which tends to promote financial stability rather than undermine it.

The Report does provide some examples of instances in which asset managers provided support to certain collective investment vehicles that experienced losses during the recent financial crisis.[4] Nevertheless, these examples are the exception rather than the rule, and there is no evidence that market participants routinely invest with asset managers based on the assumption that the asset managers will protect them against losses. In fact, applicable bank and securities regulatory requirements limit or strongly discourage bank and nonbank asset managers from guaranteeing the investments of their clients. Investment vehicles routinely experience losses without asset managers reimbursing investors for losses, and the Report does not cite any evidence that asset management clients have broadly withdrawn money from an asset manager because the manager declined to reimburse investors in a particular investment vehicle for their losses.

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[2] Report at 19.

[3] Report at 19-20.

[4] Report at 14.

2. *Structure of Asset Management Firms and the Asset Management Industry*

Another underlying flaw in the Report is that it fails to take into account the structure of asset management firms and the asset management industry. The Report focuses on the sizes of the largest asset management firms, and points to evidence that the industry has consolidated in recent years.[5] While the investment management industry has grown increasingly concentrated, the nature and effects of these trends are not as simplistic as the Report presents. Much of the consolidation has been vertical (into other aspects of money management and financial services), versus horizontal across portfolio management. At the present time, a significant number of "consolidated" or large managers actually include subsidiary advisers that operate independently from financial, trading and other perspectives. There also has also been a trend, which recurs from time to time, of large managers unbundling or selling off businesses.

The Report does note that "asset management firms have a diverse mix of businesses and business models, offer a broad variety of funds, and engage in many activities."[6] However, in many instances the Report ignores the diversity of businesses, strategies and clients both within asset management firms and across firms, such as when it suggests that concentration in the industry could "increase the risk of fire sales."[7] The Report seems to assume that large asset managers will sell the same assets at the same time, or that a large asset manager will uniformly sell an asset across all of its clients and accounts, thereby magnifying the risks of fire sales. The Report states that "[s]ome firms adopt a core investment strategy and implement that strategy across multiple funds and accounts."[8] According to the experience of MMI's members, however, the largest asset managers, which are the focus of the Report, generally do not adopt a single core investment strategy, but rather offer the greatest diversity of investment objectives, strategies and holdings, and allow portfolio managers to exercise significant autonomy with respect to their investments.[9] Therefore, we disagree that a large asset manager will have a tendency to sell a particular asset across all or most of its clients and accounts. Further, we note that many large firms simultaneously manage funds that are mandated to be short and long the same asset class, or offer index funds that maintain exposure to the assets in an index regardless of such assets' prices. These investment

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[5] Report at 3.

[6] Report at 3.

[7] Report at 3.

[8] Report at 7.

[9] In MMI's experience, core investment strategies are more common among smaller asset management firms.

strategies and offerings also will offset the risk that large asset managers will instigate or exacerbate fire sales.

3. *Financial Health of Asset Managers*

As noted above, the Report cites data showing that asset managers have small balance sheets compared to their assets under management. There is no probative evidence, however, that this disparity between balance sheet assets on the one hand, and assets under management on the other hand, contributes in any significant manner to increased financial stability risk. In one respect, the small balance sheets of asset managers relative to the major banks and nonbank financial firms indicate that their contribution to systemic risk is materially less significant. Further, the Report does not provide any persuasive evidence that large asset management firms are under-capitalized, highly-leveraged or otherwise at risk of financial distress at the firm level. In this regard, the level of an asset manager's on-balance sheet capitalization or leverage has no material financial impact on the quality or stability of the manager's assets under management, inasmuch as those assets are legally separated (and segregated) from the manager's own assets and are subject to strict financial, fiduciary and regulatory standards.

4. *Asset Managers' Risk Controls*

The Report notes that "although registered investment companies and investment advisers are required by SEC regulation to have chief compliance officers, not all asset managers have chief risk officers."[10] While it may be true that not all asset management firms have chief risk officers, it does not necessarily follow that such firms lack risk controls. In fact, required policies and procedures, and related reviews, for investment advisers and registered investment companies require these firms to consider risks. These policies and procedures are a significant focus of SEC staff commentary and attention in the course of regulatory examinations. Similarly, for regulated bank asset managers, applicable regulatory requirements and supervisory guidance place substantial emphasis on the risk management of banks' fiduciary and asset management activities, and hold banks' senior managers and directors accountable for assuring that adequate risk management policies, procedures and programs are developed, implemented and enforced.

B. Analysis of the Risks Posed by Asset Management Firms

We are concerned that the Report's analysis of the risks posed by asset management firms seriously misapprehends the nature and scope of these risks, and materially overstates

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[10] Report at 7.

their risk to U.S. financial stability. The Report does not offer meaningful substantiating data to support its conclusions, and in several instances relies on outdated data. We are also disappointed that the Report relies on academic studies, and does not include any independent analysis of the extensive data regarding asset managers to which banking regulators, the SEC and other regulators already have access.

The Report exaggerates risks through strong words like "contagion" but largely omits any meaningful discussion of the probability of these risks emerging, or factors that reduce the probability of material financial stability risks coming to pass. The Report catalogs possible risks, using the operative word "could" throughout, but itself presents little empirical data to evaluate the risks discussed based on probability or magnitude. Even if one assumes that it is legitimate for OFR to consider low-probability ("black swan" or "tail") events in assessing the risks to financial stability posed by large asset management firms, it is incumbent on OFR to evaluate those risks on the basis of solid probative data and evidence, but the Report offers no meaningful factual information to support its statements in this regard. Further, some of the risks discussed in the Report either appear to be attenuated or exaggerated, or fail to reflect the economic or financial realities of the asset management industry. This includes comments in the Report that "runs" on a manager's fund can lead to the manager failing financially, especially in the context of the larger and diversified managers that are the focus of the Report. While theoretically this outcome is possible, there are a large number of variables involved. Below is a more detailed assessment of certain risks identified in the Report.

1. Reaching for Yield

One of the risks posed by asset managers that is identified in the Report is that asset managers may be incentivized to "reach for yield," or "seek higher returns by purchasing relatively riskier assets than they would otherwise for a particular investment strategy."[11] The Report also suggests that manager incentives, such as performance fees, "create[s] incentives to invest in riskier assets." and investors may not be able to identify when managers are investing in riskier assets.[12] The Report also cites two studies indicating that underperforming managers often take more risks than managers who are outperforming.

Even if one assumes that some managers may be incentivized to invest in risky assets, we believe that the Report's discussion of this risk is oversimplified and ignores the significant checks that can mitigate this risk. First, portfolio managers are subject to ongoing scrutiny by their firms, investors, competing asset managers and various third parties that rate or analyze

[11] Report at 9.

[12] Report at 9.

managers, and there are many metrics, such as "alpha," that measure investment returns on a risk-adjusted basis. Therefore, it would not be as easy as the Report suggests for a portfolio manager to increase risk without investors and other market participants noticing. A portfolio manager who increases risk to increase returns runs the risk of losing investors, which acts as a significant check on this risk. The Report also overlooks that performance fees are subject to regulation that limits their use and are routinely accompanied by asset-based fees and other payment arrangements (such as high-water mark and clawback provisions) that, while not exposing a manager to client losses, give the managers "skin in the game" or a direct financial incentive not to take excessive risks with client assets. We also note that the studies cited by the Report regarding the incentives of underperforming managers are dated and rely on data from as far back as the 1970s and 1980s.[13] Finally, even if some managers do "reach for yield," the Report has not provided any evidence demonstrating that this phenomenon could pose broad risks to the financial system rather than just the investment vehicles that engage in this practice.

2. Herding

The Report identifies "herding" as another risk posed by asset management firms, which the Report characterizes as "the tendency of asset managers to crowd into similar, or even the same, assets at the same time."[14] The Report notes that herding behavior in liquid assets may not amplify financial stability shocks, but claims that herding into more illiquid investments "may have a greater potential to create adverse market impacts if financial shocks trigger a reversal of the herding behavior."[15] The Report does not cite any evidence that asset management firms play a role in herding, that they play a role that is distinct or different from other market participants, or even any evidence that herding exists. Rather, the Report merely posits several theories as to how herding could occur and potentially destabilize the financial system based. It is important to note that several studies not cited by OFR have concluded that there is weak evidence that herding behaviors among asset managers exist.[16] Some studies

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[13] The study by Chevalier and Ellison used data from 1983 to 1993. Judith Chevalier and Glenn Ellison, *Risk Taking by Mutual Funds as a Response to Incentives*, 105 J. POL. ECON. 1167, 1174 (1997). The Brown, Harlow and Starks study used data from 1976 to 1991. Keith C. Brown, W. W. Harlow and Laura T. Starks, *Of Tournaments and Temptations: An Analysis of Managerial Incentives in the Mutual Fund Industry*, 51 J. FIN. 85, 90 (1996).

[14] Report at 10.

[15] Report at 10.

[16] *See* Mark Grinblatt, Sheridan Titman and Russ Wermers, *Momentum Investment Strategies, Portfolio Performance, Herding: A study of Mutual Fund Behavior*, 85 AM. ECON. REV. 1088 (1995) ("We also find relative weak evidence that funds tended to buy and sell at the same time."); Josef Lakonishok, Andrei Shleifer and Robert Vishny, The Impact of Institutional Trading on Stock Prices, 32 J. FIN. ECON. 23, 42 (1992) ("[T]he evidence shows relatively little of either herding or positive-feedback trading in the largest stocks, which constitute the bulk of most institutional holdings and trading.").

have found evidence of herding in small capitalization stocks, but have concluded that such herding actually tends to stabilize prices in such stocks.[17] Further, as we previously noted, the diversity of investment strategies both within and across asset management firms will mitigate the risk that asset managers will herd into a particular asset as a group.

3. *Exchange Traded Funds*

Within the discussion of the risks of herding, the Report dedicates significant attention to the risk that exchange traded funds ("ETFs") "may transmit or amplify financial shocks originating elsewhere."[18] An analysis of whether ETFs actually pose such risks is outside the scope of this comment letter. Nevertheless, even if we assume, *arguendo*, that ETFs may transmit or amplify financial shocks, it is unclear how this feature of ETFs is relevant to financial stability risks posed by large asset management firms. The Report does not provide any evidence or explanation as to how ETFs pose a risk to their investment managers or how a large asset manager's role as manager of a risky ETF might amplify the risks posed by the ETF. Further, it is unclear how the Report's recommendation for increased data reporting about asset management firms and separate accounts would in any way help mitigate the risks posed by ETFs. The threat that ETFs pose to financial stability (if any) would be a justification for expanding or modifying the regulation of ETFs, not for imposing data reporting requirements on asset managers. That being said, ETFs are already heavily regulated by the SEC and/or Commodity Futures Trading Commission ("CFTC") pursuant to the Securities Act of 1933 ("Securities Act"), the Securities Exchange Act of 1934 (the "Exchange Act"), the Investment Advisers Act of 1940 (the "Advisers Act"), the Investment Company Act of 1940 (the "1940 Act") and/or Commodity Exchange Act (the "CEA"), and regulators have access to detailed information regarding ETFs. In turn, the investing public has access to detailed information about the holdings of ETFs.

4. *Redemption Risk*

The Report states several times that managers facing fund redemptions or other brand issues could be "frozen out" by the street and/or face "runs" against their investment vehicles.[19] Past market experience indicates, however, that if an investment vehicle or investment vehicles managed by an asset manager come under financial pressure, it is unlikely

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[17] Russ Wermers, *Mutual Fund Herding and the Impact on Stock Prices*, 54 J. FIN. 581 (1999) ("Although we find little herding by mutual funds in the average stock, we find much higher levels in trades of small stocks and in trading by growth-oriented funds. . . . Our results are consistent with mutual fund herding speeding the price-adjustment process.")

[18] Report at 11.

[19] Report at 12-13.

that the firm or all of its investment vehicles will be denied access to the financial markets or face "runs," because market participants recognize that (i) asset management firms are not liable for clients' losses and (ii) the firms' other investment vehicles are separate legal entities with separate assets and liabilities that are completely segregated from the assets and liabilities of the financially stressed investment vehicles. Further, to the extent that market participants may be concerned about an asset manager or its investment vehicles, the manager can provide market participants with financial statements or other information demonstrating that their financial health has not been jeopardized by the financial pressures affecting certain of the manager's investment vehicles. By contrast, trading firms (*e.g.*, Bear Stearns, Lehman Brothers, MF Global) that encounter financial difficulties are far more likely to lose market or liquidity access, because counterparties have reason to question at that time the ability of the firm to satisfy its financial obligations as they come due.

5. Transmission of Risks to Other Market Participants

The Report also suggests that risks affecting asset managers could infect other market participants, primarily through fire sales and through exposure of creditors, counterparties, and investors.[20] However, there are a fair number of logical gaps in the Report's claims. In this regard, the Report notes that "direct connections among asset managers, banks, broker-dealers, insurance companies, and other financial services providers have grown in the past decade."[21] The Report then goes on to say that the "extensive connections asset managers have with other financial services firms, and the concentration of some of the services, increase the potential that risks originating in other market sectors could be transmitted or amplified to asset managers into broader financial markets, or conversely, that risks originating in asset managers could be transmitted to other market sectors."[22] The Report discusses the services provided by other financial services firms to money managers that could transmit risk to asset managers, but falls short in explaining how asset managers could transmit risk to other financial services providers. Again, the Report's analysis appears to overlook the agency nature of asset manager's businesses. The Report does not identify the nature and scope of the exposures that such firms actually have to asset managers as opposed to the manager's clients, or the separate implications of such exposures.

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[20] Report at 21.

[21] Report at 21.

[22] Report at 21.

C. Analysis of the Risks Posed by Separate Accounts

The Report concludes that additional data is needed about separate accounts, but provides very little evidence demonstrating a link, or even the possibility of a link, between separate accounts and the risk factors that are identified as relevant to financial stability. Further, there are no data or examples cited in the Report of separate accounts being the source of systemic risk, either before or during the financial crisis. Indeed, we question whether such evidence even exists, inasmuch as no convincing case has been made, or in our view can be made, that separate accounts were a contributing factor to any, let alone material, financial instability during the recent financial crisis.

D. Mitigating Factors

The Report also ignores effects of existing regulation in identifying, quantifying and reducing the risks posed by asset managers. For example, while the Report devotes considerable attention to the risks of investments in derivatives, it makes no mention of the extensive changes made by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") to the regulation of derivatives, which includes the following requirements that are expressly designed, in major part, to mitigate the risks of such activities:

- central clearing and exchange execution;
- margin requirements for uncleared derivatives;
- reporting of detailed transaction data;
- protection of customer collateral;
- registration and comprehensive regulation of derivatives dealers (including capital and risk management requirements); and
- registration and comprehensive regulation of derivative counterparties with large exposures (major swap participants and major security-based swap participants).

Further, the Report's discussion of leverage as a potential risk in the asset management industry[23] similarly fails to take into account the existence of regulatory restrictions and requirements that are designed to limit such leverage, including Federal Reserve Board and FINRA margin regulations, central clearing and margin requirements for derivatives, and materially increased regulatory capital requirements for banks. These controls, which have been in place either for a long time or have recently been bolstered, have had an important role in controlling the amount of leverage used by regulated financial institutions, including

[23] Report at 17-18.

asset managers, in the financial markets. And, even in a worst-case scenario, a single over-leveraged investment fund or account may decline in value or liquidity in times of financial stress, but is unlikely to have a level of counterparty exposures that would present a material risk to the financial system.

More generally, the Report gives little consideration to the broad regulatory regimes to which asset managers and their investment vehicles are subject. Many if not most large asset managers are registered as investment advisers, commodity pool operators and/or commodity trading advisers and are subject to the comprehensive requirements and regulations under the Advisers Act and the CEA and oversight by the SEC and CFTC. Publicly-offered investment funds are subject to a combination of the registration requirements under the Securities Act, the reporting requirements under the Exchange Act and/or the comprehensive requirements under the 1940 Act and/or the CEA. Managers of private funds and separate accounts are subject to regulation under the Advisers Act and/or CEA, including in many cases the very detailed reporting requirements of Form PF. Further, asset managers that manage assets for retirement plans (and many of their counterparties and services providers) are subject to the requirements and regulations under the Employee Retirement Income Security Act ("ERISA") and oversight by the Department of Labor. Many large asset managers are also subject to significant regulation and oversight by federal and state banking regulators. All of these regulatory regimes and regulators provide substantial protections against the risks identified in the Report.

Another strong mitigating force that is largely ignored by the Report is market competition within the asset management industry. The market for asset management services is highly sophisticated and competitive, and it is very easy for clients to move assets from one manager to another. Institutional investors conduct extensive due diligence on asset managers and continually monitor and oversee their investments. Further, many retail investors are advised by independent investment advisers and program managers and are prohibited from investing in investment vehicles such as private funds that the law has deemed too risky for such investors.

The Report also downplays factors that mitigate the risks discussed therein. For some risks, the Report discusses potentially mitigating factors, but as a whole does little to identify and analyze the myriad market forces that shape the probability and magnitude of the risks discussed, including important ways in which market forces limit the probability of these risks or mitigate the magnitude of negative consequences. Also, the language of the Report takes an unrealistically dismissive approach to mitigating factors because they may not be altogether eliminate the risks posed by asset management activities. For example, the Report states that regulation of managers, while "helping ensure that managers adhere to their clients' desired risk-return profiles," "*does not always* address collective action problems and other broader behavioral issues that can contribute to asset price bubbles or other market cycles" (emphasis added).[24]

With respect to "fire sales," the Report makes frequent reference to fire sale situations but makes only isolated reference to mitigating factors, the role played by other market participants, or firm or regulatory options. Similarly, the Report makes repeated reference to certain pooled investment vehicles becoming subject to mass redemptions, but makes only isolated reference to the means that exist to limit those risks and the options available to managers of these vehicles, including redemptions in kind, which managers in turn regularly employ as necessary. In this regard, many asset management clients, particularly alternative investment funds and many separate accounts, employ contrarian or similar investment strategies that help mitigate the disruptions caused by fire sales by acting as buyers when other market participants are selling.[25]

II. Other Limitations of the Report

In general, the Report lacks clarity regarding the scope of possible systemic regulation, the objectives of data collection, or the appropriateness of systemic FSOC regulation. Among other things, the Report appears to take a homogeneous approach in the treatment of all asset managers, their activities and the risk postures of their activities, and fails to articulate a construct for distinguishing which asset managers pose systemic risks and which managers would not pose such risks.

In turn, the articulation of a framework for identifying which asset managers, if any, may pose a risk to U.S. financial stability is an indispensable prerequisite to the determination of which data should be collected to undertake the requisite systemic risk analysis. Put another way, there should be a clear objective for collecting data before it is collected, and data should not be collected just for the sake of collecting data or if there is no plan or framework for how it will be used.

Moreover, even if there is an articulated purpose to the collection of asset manager and separate account data, OFR should give careful consideration to how that data should be

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[24] Report at 10.

[25] As a recent example, during the period of market uncertainty in October of this year caused by the government shutdown and possibility that the U.S. government's debt ceiling would not be raised, one large asset manager, Fidelity Investments, announced that it had sold all U.S. government debt that matured near the date that the U.S. government may have run out of available funds. At the same time, Bill Gross, the co-chief investment officer of another large asset manager, Pacific Investment Management Company, LLC ("PIMCO"), claimed that PIMCO was "probably buying what Fidelity is selling." Drew Sandholm, *Bill Gross: We're buying what Fidelity is selling*, CNBC, October 9, 2013, http://www.cnbc.com/id/101100268.

collected. As noted previously, virtually all asset management firms that could pose a risk to financial stability either are registered with the SEC as investment advisers, or are subject to comprehensive regulation and supervision by federal and state banking authorities. The types of data that the Report appears to recommend being collected (*e.g.*, asset concentrations, counterparty exposures and the like) could result in a highly burdensome and costly data collection and reporting exercise for U.S. asset managers. In turn, if OFR believes that such data, or portions of such data, are necessary to assess the financial stability implications of the asset management industry, OFR first should seek such data from the regulatory authorities that oversee such data, as is contemplated by the Dodd-Frank Act,[26] rather that permit the duplicative oversight and data collection activities. We note that significant data is already provided by asset managers and their investment vehicles to regulators through Form ADV, Form N-SAR, Form 13F, Form 13H, Form PF, Form CTA-PR and TIC reports, among other reports and forms.

III. Conclusion

MMI strongly disagrees with the apparent conclusions of the Report that asset management firms and separate accounts pose a threat to financial stability. We believe that the Report reflects a fundamental misunderstanding of the structure of asset management firms and the nature of their role in the financial system. We are concerned that the Report does not provide an objective analysis of the risks posed by asset management firms (including privately-owned firms), and relies heavily on hypotheses about events that "could" happen that are not supported by any evidence. The weakness of the Report's evidence is particularly true with respect to the Report's analysis of separate accounts, yet the Report nevertheless concludes that asset management firms should be subject to potentially burdensome and costly reporting requirements with respect to separate accounts.

We urge OFR, FSOC, the SEC and other regulators to focus on improving information sharing under existing regulatory regimes rather than adopting new regulations based on the analysis in this report, which we believe is flawed. Although we have expressed criticisms of the Report, we share in the ultimate goal of financial stability and would like to maintain a productive dialogue with regulators about achieving financial stability through intelligent regulation that avoids unnecessary costs and burdens that could be passed on to investors or harm the competitiveness of the U.S. asset management industry.

[26] *See* Dodd-Frank Sections 112(c)(3)(B), 153(f)(1)(B) and 154(b)(1)(B)(ii).

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Thank you for giving MMI the opportunity to comment on the foregoing. If you have any questions regarding this letter, please contact the undersigned at [redacted] or [redacted].

Sincerely,

Christopher L. Davis

President

Money Management Institute