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<u>Via Electronic Mail (rule-comments@sec.gov)</u>

Mr. Brent J. Fields, Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: File No. S7-09-15: Amendments to
Form ADV and Investment Adviser Act Rules

Dear Mr. Fields:

OppenheimerFunds, Inc. ("OppenheimerFunds") [1] appreciates the opportunity to comment on the proposal (the "Proposal") to revise the reporting and disclosure by registered advisers as described in the above-referenced release (the "Release")[2].

We support the goal of the Securities and Exchange Commission (the "Commission" or the "SEC") in proposing amendments to Form ADV under the Investment Advisers Act (the "Advisers Act"). These amendments will enhance the SEC's risk assessment and risk monitoring capability by collecting information regarding advisers' separately managed accounts. However, public disclosure of certain separately managed account information raises concerns that the information could be used to identify particular clients and their investment profile. In addition to these confidentiality concerns, we believe that certain definitions and other aspects of the Proposal should be clarified to prevent inconsistent responses or confusion among advisers. Our specific comments follow.

[1] OppenheimerFunds is a registered investment adviser, providing investment management and transfer agent services to nearly 100 registered investment companies. OppenheimerFunds has been in the investment advisory business since 1960, and with its subsidiaries, has more than $230 billion in assets under management.

[2] See 80 Fed. Reg. 33718 (June 12, 2015), Release IA-4091 (May 20, 2015).

1. Information Regarding Separately Managed Accounts.

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

The new disclosure proposed in Schedule D, Section 5.K.(2), should provide a *de minimis* number of accounts in any one asset range below which an adviser would not be required to report the detailed derivative exposure and borrowing data required by this Section. We further believe that Section 5.K.(2) should require the number of accounts to be rounded to the nearest five (5) accounts to further protect the client information required by this Section. In addition, we believe that the $10 billion, $150 million and $10 million thresholds for reporting under Section 5.K.(2) on Schedule D strike an appropriate balance between the Commission's desire for information about separately managed accounts and the burdens of preparing and disclosing such information, particularly for smaller advisers.

We believe that the detailed information required by Section 5.K.(2) of Schedule D may place advisers that have one or a very small number of separate account clients, or a small number of clients within one of the three net asset bands, at a competitive disadvantage compared to advisers with numerous separate account clients because public disclosure of derivative exposures and/or borrowings may indirectly reveal sensitive information about client accounts. We do not believe that this concern is fully mitigated, as the Proposal suggests, by the fact that the Section does not require disclosure of specific positions or exposures or client names. With client consent, client names may be divulged by an adviser for a variety of reasons, such as to consultants, in connection with a request for proposal ("RFP") or publicly for general marketing purposes. We are concerned that market participants may be able to glean from such disclosure the identity of clients whose information is disclosed on Schedule D, Section 5.K.(2). The disclosure required by Schedule D, Section 5.K.(2) may therefore have a chilling effect on advisers with small numbers of separate accounts divulging client names, which may, in turn, negatively impact their marketing efforts and put them at a competitive disadvantage. In addition, clients may be less willing to grant advisers such as OppenheimerFunds permission to disclose their names, which may also competitively disadvantage advisory firms with small numbers of separately managed accounts.

To address the foregoing confidentiality concern, we propose that the number of accounts in column 1 of the chart required by Section 5.K.(2) in Schedule D be rounded to the nearest five (5) accounts (*e.g.*, an adviser with eight accounts would report 10 accounts in column 1 and an adviser with 12 accounts would also report 10 accounts). We further propose that if an adviser manages fewer than five (5) accounts in any of the three net asset bands provided in Section 5.K.(2), then the adviser may omit the information that would otherwise be required by this Section for that particular net asset value range. We believe this combination of rounding the actual number of client accounts plus adding a *de minimis* threshold will prevent market participants from deducing sensitive client information about specific clients and, therefore, will not unfairly disadvantage advisers with few separate account clients or few separate account clients in one or more net asset bands.

We also believe that the $150 million floor for reporting under Section 5.K.(2) of Schedule D being consistent with the floor of $150 million for reporting similar derivative and borrowing information on Form PF is appropriate. We further believe that aligning the $10 billion threshold in Section 5.K.(2) with the statutory threshold in the Dodd-Frank Wall Street Reform and Consumer Protection Act for

large investment advisers and large funds is appropriate. We do not believe that the potential benefits to the risk assessment and monitoring function of the Commission staff by requiring reporting below this threshold would outweigh the burdens on what will likely be primarily smaller advisers.

b. Investment Strategies Used in Separately Managed Accounts

We do not believe that the staff should ask for additional information about specific investment strategies used in separately managed accounts as opposed or in addition to asset types of separate account clients.

Separate account strategies are often customized for individual clients based on the client's particular risk and return considerations and sometimes other considerations such as socially responsible investment screens. In addition, there is no universal standard used to describe investment strategies and advisers may use different names to describe similar investment strategies for separately managed accounts. Separately managed account investment strategies are therefore not as easy to classify and combine as pooled vehicles reported on Form PF. This would be particularly true for larger advisers with a large institutional separate account business as well as smaller advisers whose client base is predominately separately managed accounts. We therefore believe that it would be difficult to compare investment strategies among separate accounts, lowering the utility of the information as a risk management tool. We also believe that disclosure of individual strategies of separately managed accounts would greatly increase the burden on advisers over the current proposal and would result in additional confidentiality concerns of the type expressed above with respect to proposed Section 5.K.(2).

c. Interpretation of the Term "Derivatives"

We believe that Form ADV should provide an instruction on how to interpret the term "derivatives" to ensure consistency of reporting among advisers. Proposed Item 5.K.(3) of Part 1A requires an adviser that engages in "derivative transactions" on behalf of its separately managed accounts to complete Schedule D, Section 5.K.(2). The definition of "derivative transactions" is therefore central to determining whether an adviser is required to complete Schedule D, Section 5.K.(2). The proposed Form ADV amendments do not define the term "derivative" or "derivative transactions." While instruments such as swaps, futures, options and forwards are commonly included in any definition of derivatives, there are other instruments whose status as a derivative is less clear. We therefore believe that not defining the term "derivatives" would result in inconsistent reporting among advisers, which would frustrate the regulatory purpose of providing information that can be compared among advisers.

Based on the foregoing, we recommend including an instruction that guides advisers on how to interpret the term "derivatives." We believe that continuing innovation in financial instruments would make any specific definition of "derivatives" eventually obsolete. We therefore recommend a definition that provides flexibility to adapt to changing financial markets and financial instruments. Specifically, we recommend that advisers be permitted to interpret the term derivatives by reference to FASB ASC 815, which uses a set of characteristics to define derivatives. Use of the FASB ASC 815 definition of derivatives would result in consistent treatment of reporting on Form ADV, an adviser's financial statements and the financial statements of other pooled vehicles managed by the adviser, which will result in efficiencies and may reduce reporting costs associated with Item 5.K.(3). A common definition

like FASB ASC 815 would also largely avoid inconsistent reporting that might result from not defining the term "derivatives." The FASB ASC 815 derivative definition's use of conditions rather than a list of specific instruments will allow flexibility for adjustments, if needed, as new derivative instruments develop. We believe that this combination of flexibility and familiarity among advisers make it an ideal standard to promote consistency of reporting and harmonization with existing reporting rules.

d. Clarification of the Term "Non-U.S. Clients"

We recommend clarifying that the reference in new Item 5.F.(3) of Part 1A to "non-U.S. clients" is intended to mean any client who is not a "United States person," as defined in Rule 203(m)-1 under the Advisers Act. Proposed new Item 5.F.(3) would require advisers to disclose the approximate amount of their total regulatory assets under management ("RAUM") attributable to non-U.S. clients. The proposed Form ADV does not include a definition of the term "non-U.S. clients" or an instruction on how to construe this term. The discussion in the Proposal, however, states that this new disclosure item is intended to complement the requirement in Item 5.C.(2) of the current Form ADV that each adviser report the percentage of its clients that are non-U.S. persons. The term "United States person" is defined in current Form ADV by reference to Rule 203(m)-1 under the Advisers Act. Based on the Commission's statement in the Proposal that both Item 5.C.(2) and proposed new Item 5.F.(3) of Part 1A are intended to be complementary, we believe that the Commission intended the definition of "non-U.S. clients" in Item 5.F.(3) and the reference in Item 5.C.(2) to clients who are "non-United States persons" to have the same meaning. Assuming a parallel interpretation of these two Items was intended, we believe that the reference in proposed Item 5.F.(3) to "non-U.S. clients" be rephrased to read "clients who are non-United States persons."

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

We recommend deleting from proposed Section 5.K.(3) of Schedule D the requirement to identify the location of the custodian's office responsible for custody of the assets of an adviser's separately managed account.

Proposed Section 5.K.(3) of Schedule D would require certain information about the custodians for separately managed accounts that hold ten percent or more of an adviser's separately managed account client RAUM. In particular, Section 5.K.(3)(c) would require the location (city, state and country) of each such custodian's office(s) responsible for custody of the assets. The majority of custodial records for security positions held by an adviser's separately managed accounts are kept electronically. The location of a particular custodian's office responsible for custody of such assets is therefore not particularly meaningful as it represents only one of several possible offices through which information about the custodial records of a separately managed account can be accessed. Further, many advisers do not maintain this physical location information as a matter of course and would need to obtain the information from individual separately managed account clients. This is in contrast to physical address information of custodians to private funds, which advisers often possess through their involvement in establishing the private fund and its contractual relationships with service providers such as custodians.

The Proposal states that the custodian information required by new Section 5.K.(3) would allow the Commission's examination staff to identify advisers whose clients use the same custodian in the event,

for example, a concern is raised about a particular custodian. We believe that the identity of a custodian, rather than the location of the custodian's office, would be of primary benefit in achieving this stated goal. Given the electronic nature of custodial records and multiple potential access points, we believe that the burden of having to obtain the location of custodian offices outweighs the stated benefit to the Commission and recommend deleting proposed Section 5.K.(3)(c).

f. Parallel Managed Account Definition

The proposed definition of "parallel managed account" is: "With respect to any registered investment company or business development company, a parallel managed account is any managed account or other pool of assets that you advise and that pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as the identified investment company or business development company that you advise." We suggest adjusting the definition to make clear that the term "registered investment company" refers to the series of an investment company organized as a series company.

g. Updating of Social Media Information

Form ADV, as proposed to be amended, requires information about the adviser's platforms for social media websites, which is requested in Item 1 of Form ADV. The instructions to Form ADV require that, in addition to annual updating, advisers must amend Form ADV, and the corresponding schedules, to reflect changes in the information reported in response Item 1.

We believe that annual updating of this information is sufficient, and that ongoing interim reporting requirements for changes in social media websites would not provide a benefit to investors and clients of the adviser, who will ordinarily rely on standard internet searches to find the websites, rather than Form ADV.

2. Additional Information Regarding Investment Advisers

We recommend modifying the proposed addition to instruction to Item 8 of Part 1A to require adviser's to answer the questions in this section based on the types of participation and interest that the adviser had in such transactions during the reporting period rather than based on such transactions that are expected to occur during the next year.

The Proposal would require advisers responding to the questions in Item 8, which relate to an adviser's participation or interest in client transactions, to base their responses on the types of participation and interest that the adviser ***expects*** to engage in during the next year. If adopted, Item 8 would be the only question in Part 1A for which an adviser would be required to report forward-looking information other than Item 2.A.(9), which deals with advisers expecting to be eligible for SEC registration within 120 days. Form ADV, including current Item 8, is therefore almost exclusively backward looking, requiring advisers to gather, synthesize and report definitive information based on events that have occurred. We believe that requiring advisers to complete Item 8 based on activity that has not yet occurred may lead to uneven and potentially inaccurate reporting among advisers. For example, advisers may have different views on what degree of certainty of an expected transaction would trigger reporting. In addition, reporting based on forward-looking information may result in "false positives" if, in fact, the transactions that were expected to occur when the adviser was completing its initial or updated Form

ADV do not occur due to a change in business plans or otherwise. The potential for false positives may create the need for special documentation of these "expected" transactions in order to justify to the OCIE examination staff during an exam what transactions were contemplated and whether they did or did not occur. For the foregoing reasons, we propose modifying the instruction to Item 8 of Part 1A to require adviser's to answer the questions in this section based on the types of participation and interest that the adviser had in such transactions during the reporting period, which would align the backward-looking scope of this Item with the other Items in Part 1A.

We appreciate the Commission's consideration of the above comments in connection with the SEC's proposals described in the Release. We would be pleased to discuss these comments in greater detail with the Commission and the Staff. We are also in agreement with the comments submitted by the Investment Company Institute (ICI) and by the Securities Industry and Financial Markets Association (SIFMA). If you have any questions or require additional information, please contact either me (at [redacted], [redacted]) or Brian Hourihan (at [redacted] or [redacted]).

Respectfully submitted,

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General Counsel
OFI Global Asset Management, Inc.