

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION
FOR AMENDMENTS TO FORM ADV**

A. JUSTIFICATION

1. Necessity for the Information Collection

Rule 203-1¹ under the Investment Advisers Act of 1940 (“Advisers Act”)² requires every person applying for investment adviser registration with the Securities and Exchange Commission (“Commission”) to file Form ADV.³ Form ADV is a three-part investment adviser form. Part 1 of Form ADV contains information used primarily by Commission staff and Part 2 is the client brochure, and Part 3 requires registered investment advisers that offer services to retail investors to prepare and file with the Commission, post to the adviser’s website (if it has one), and deliver to retail investors a relationship summary. Rule 204-4⁴ under the Advisers Act requires certain investment advisers exempt from registration with the Commission (“exempt reporting advisers”) to file reports with the Commission by completing a limited number of items on Form ADV. Rule 204-1⁵ under the Advisers Act requires any adviser that is required to complete Form ADV to update the form at least annually, including exempt reporting advisers that report to the Commission pursuant to rule 204-4 and requires advisers to submit electronic filings through the Investment Adviser Registration Depository (“IARD”). The paperwork

¹ 17 CFR 275.203-1.

² 15 U.S.C 80b-4.

³ 17 CFR 279.1.

⁴ 17 CFR 275.204-4.

⁵ 17 CFR 275.204-1.

burdens associated with rules 203-1 and 204-1 are included in the approved annual burden associated with Form ADV and thus do not entail a separate collection of information. The paperwork burdens associated with rule 204-4 are also included in the approved annual burden associated with Form ADV and likewise do not entail a separate collection of information.

On November 4, 2019, the Commission proposed amendments to rules related to how advisers advertise to and solicit clients and investors.⁶ The proposed amendments to the advertising rule, rule 206(4)-1 under the Advisers Act, would replace the current advertising rule's broadly drawn limitations with principles-based provisions, and the proposed amendments to the Advisers Act cash solicitation rule, rule 206(4)-3,⁷ would expand the rule to cover solicitation arrangements involving all forms of compensation, rather than only cash compensation, eliminate requirements duplicative of other rules, and tailor the required disclosures solicitors would provide to investors.⁸ The Commission also proposed amendments under the Advisers Act to Form ADV to collect additional information about advisers advertising practices.

We proposed amendments to Form ADV to add a subsection L to Item 5 of Part 1A (“Advertising Activities”) to require information about an adviser’s use in its advertisements of performance results, testimonials, endorsements, third-party ratings and its previous investment advice. Specifically, we would require an adviser to state whether any of its advertisements contain performance results, and if so, whether all of the performance results were verified or

⁶ Investment Adviser Advertisements; Compensation for Solicitations, Release No. IA-5407 (November 4, 2019) [84 FR 67518 (Dec. 10, 2019)]

⁷ 17 CFR § 275.206(4)-3.

⁸ See Release No. IA-5407, *supra* footnote 6.

reviewed by a person who is not a related person. We would also require an adviser to state whether any of its advertisements includes testimonials or endorsements, or includes a third-party rating, and if so, whether the adviser pays or otherwise provides cash or non-cash compensation, directly or indirectly, in connection with their use. Finally, we would require an adviser to state whether any of its advertisements includes a reference to specific investment advice provided by the adviser. The Commission uses the information on Form ADV to determine eligibility for registration with us and to manage our regulatory and examination programs. Clients use the information required in Form ADV to determine whether to hire or retain an investment adviser, as well as what types of accounts and services are appropriate for their needs.

Form ADV contains “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995.⁹ The proposed amendments to Form ADV related to the proposed amendments to the advertising and solicitation rules contain collections of information. The collections are necessary to provide advisory clients, prospective clients, and the Commission with information about the advertising and solicitation practices of advisers. Responses are not kept confidential.

The title of this collection of information is: “Form ADV under the Investment Advisers Act of 1940” and the Commission previously submitted this collection to the Office of Management and Budget (“OMB”) for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. OMB approved, and subsequently extended, this collection under control number 3235-0049 (expiring on November 30, 2023). An agency may not conduct or sponsor, and a

⁹ 44 U.S.C. 3501 to 3520.

person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This collection of information is codified at 17 CFR 279.1, 17 CFR 275.203-1, 17 CFR 275.204-1 and 17 CFR 275.204-4 and is mandatory. The respondents are investment advisers registered with the Commission or applying for registration with the Commission or exempt reporting advisers.

2. Purpose and Use of the Information Collection

The purpose of this collection of information is to provide advisory clients, prospective clients, and the Commission with information about an adviser, and its business, conflicts of interest and personnel. We use the information to determine eligibility for registration with us and to manage our regulatory, examination, and enforcement programs. Clients use certain of the information to determine whether to hire an adviser and, if hired, how to manage that relationship.

This collection of information is found at 17 CFR 275.203-1, 275.204-1, 275.204-4, and 275.279.1, and it is mandatory. Responses are not kept confidential. The majority of the respondents to the Form ADV collection of information are investment advisers registered with the Commission or applying for registration with the Commission while the additional respondents to the Form ADV collection of information are exempt reporting advisers. The information collected takes the form of disclosures to respondents' clients, potential clients, and the Commission.

3. Consideration Given to Information Technology

The information collected pursuant to Form ADV takes the form of disclosures made by investment advisers to their clients and potential clients and reporting to the Commission.

Investment advisers currently file their Form ADV electronically on the IARD system. This method of collecting information reduces the regulatory burden upon investment advisers by permitting them to file applications for registration, and amendments thereto, at one central location, rather than filing Form ADV separately with the Commission and the states for notice filing purposes.

Exempt reporting advisers are subject to reporting, but not registration requirements and must submit their reports through the IARD using the same process as registered investment advisers. Because exempt reporting advisers may be required to register on Form ADV with one or more state securities authorities, use of the existing form and filing system permits these advisers to satisfy both state and Commission requirements with a single electronic filing. Our approach permits an adviser to transition from filing reports with us to applying for registration under the Act by simply amending its Form ADV; the adviser would check the box to indicate it is filing an initial application for registration, complete the items it did not have to answer as an exempt reporting adviser, and update the pre-populated items that it already has on file.

4. Duplication

The collection of information requirements of the form, including the amendments to the form, are not duplicated elsewhere. The Commission periodically evaluates rule-based reporting and recordkeeping requirements for duplication, and reevaluates these requirements whenever it adopts amendments to its rules.

5. Effect on Small Entities

The requirements of Form ADV, including the amendments, are the same for all investment advisers registered with the Commission, and they are the same for all exempt

reporting advisers, including (in both cases) those advisers that are small entities. Investment advisers with less than \$100 million in assets under management generally are not permitted to register with the Commission and must register with state securities authorities. Because the protections of the Advisers Act are intended to apply equally to retail investor clients of both large and small firms, it would be inconsistent with the purposes of the Advisers Act to specify differences for small entities under the new requirements. The Commission reviews all rules periodically, as required by the Regulatory Flexibility Act, to identify methods to minimize recordkeeping or reporting requirements affecting small businesses.

6. Consequences of Not Conducting Collection

The collection of information required by the form is necessary to protect investors by providing clients and potential clients, as well as the Commission, with information about the adviser, and its business, conflicts of interest and personnel. The consequences of not collecting this information would be that clients and prospective clients may not have the information they need in order to evaluate the adviser's business practices and to determine whether to hire an adviser and, if hired, how to manage that relationship. In addition, if the information is either not collected or is collected less frequently, the Commission's ability to protect investors would be reduced.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

Not applicable.

8. Consultation With Persons Outside the Agency

In its release proposing to amend the advertising, cash solicitation, and recordkeeping rules, Commission requested public comment on the effect of information collections under

these amendments. The Commission has not yet received any comments addressing the impact of the information collections.

The Commission and the staff of the Division of Investment Management also continue to participate in an ongoing dialogue with representatives of the investment adviser industry through public conferences, meetings and informal exchanges. These various forums provide the Commission and the staff with a means of ascertaining and acting upon paperwork burdens facing the industry.

9. Payment or Gift

None.

10. Confidentiality

The assurance of information collected pursuant to Form ADV is through filings with the Commission. These disclosures are not kept confidential.

11. Sensitive Questions

a. No information of a sensitive nature will be required under this collection of information. The IARD system contains an embedded check which prevents individuals' social security numbers from being subject to public view.

b. The information collection collects basic Personally Identifiable Information (PII) that may include names, dates of birth and social security numbers (the social security numbers are screened from public view). The agency has determined that the information collection constitutes a system of record for purposes of the Privacy Act and is covered under System of Records Notice (SORN) SEC-50 "Investment Adviser Records". The Investment Adviser Records SORN is provided as a supplemental document and is also available at

<https://www.sec.gov/privacy>. A Privacy Act Statement is applicable for the information collection and is available on the paper form and web platform.

c. In accordance with Section 208 of the E-Government Act of 2002, the agency has conducted a Privacy Impact Assessment (PIA) of the IARD system, in connection with this collection of information. The IARD PIA, published on July 8, 2014, is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>.

Form ADV collects Personally Identifiable Information (PII). Form ADV requires filers to provide names, dates of birth and social security numbers (the social security numbers are screened from public view). The IARD system contains an embedded check which prevents individuals from providing social security numbers. All individuals (and entities other than trusts) are required to obtain CRD numbers, which do not constitute PII. Such collection and usage is necessary for verification purposes. Commission staff uses this information for positive verification of individuals and entities. Alternative identities are used for all individuals and entities other than trusts because a social security number is the only identifier available to them. The Commission complies with section 7 of the Privacy Act of 1974 because the Advisers Act authorizes the Commission to collect this information on Form ADV from advisers.¹⁰ Filing Form ADV is mandatory. A System of Records Notice has been published in the Federal Register at 66 FR 7820. It, along with instructions on how to obtain the applicable Privacy Impact Assessment, can be found at: <http://www.sec.gov/about/privacy/secprivacyoffice.htm>.]

12. Burden of Information Collection

¹⁰ See 15 U.S.C. §§ 80b-3 and 80b-4.

The respondents to current Form ADV are investment advisers registered with the Commission or applying for registration with the Commission and exempt reporting advisers.¹¹ As of March 31, 2020, 13,500 investment advisers were registered with the Commission, and 4,300 exempt reporting advisers report information to the Commission. As discussed above, we proposed amendments to Form ADV to add a subsection L to Item 5 of Part 1A (“Advertising Activities”) to require information about an adviser’s use in its advertisements of performance results, testimonials, endorsements, third-party ratings and its previous investment advice. The amendments we proposed would increase the information requested in Part 1A of Form ADV for registered investment advisers. Because exempt reporting advisers are required to complete a limited number of items in Part 1A of Form ADV, which exclude Item 5, they would not be subject to the proposed amendments to Form ADV Part 1A and would therefore not be subject to this collection of information.¹² However, these exempt reporting advisers are included in the PRA for purposes of updating the overall Form ADV information collection. In addition, as noted above, the Commission recently adopted amendments to Form ADV to add a new Part 3, requiring registered investment advisers that offer services to retail investors to prepare and file with the Commission, post to the adviser’s website (if it has one), and deliver to retail investors a

¹¹ An exempt reporting adviser is an investment adviser that relies on the exemption from investment adviser registration provided in either section 203(l) of the Advisers Act because it is an adviser solely to one or more venture capital funds or 203(m) of the Advisers Act because it is an adviser solely to private funds and has assets under management in the United States of less than \$150 million. An exempt reporting adviser is not a registered investment adviser and therefore would not be subject to the relationship summary requirements.

¹² An exempt reporting adviser is not a registered investment adviser and therefore would not be subject to the proposed amendments to Item 5 of Form ADV Part 1A. Exempt reporting advisers are required to complete a limited number of items in Part 1A of Form ADV (consisting of Items 1, 2.B., 3, 6, 7, 10, 11 and corresponding schedules), and are not required to complete Part 2.

relationship summary.¹³ The burdens associated with completing Part 3 are included in the PRA for purposes of updating the overall Form ADV information collection.¹⁴

The currently approved burdens for Form ADV are set forth below:

	Registered Investment Advisers			Exempt Reporting Advisers
	<i>Subject to Form ADV Parts 1 and 2</i>	<i>Subject to Form ADV Part 3</i>	<i>Advisers to private funds</i>	
Number of advisers included in the currently approved burden	13,500 advisers + 500 expected newly registered RIAs annually	8,500 advisers + 315 expected newly registered RIAs annually	4,863 advisers + 115 expected newly registered RIAs annually	4,300 + 300 expected new ERAs annually
<i>Annual Burden Hours</i>				
Prepare and file Form ADV Parts 1 and 2	136,360 hours			5,520 hours
Prepare and file Form ADV Part 3		24,241 hours		
Updating Forms/brochures	114,750 hours (Part 1) + 27,000 (Part 2) = 141,750 hours	14,535 hours		6,470 hours
Deliver Code of Ethics	17,550 hours			
Private fund reporting			12,570 hours	6,333 hours
<i>Totals</i>				
Burden hours	365,329 hours			18,323 hours
Monetized cost	\$100,409,140			\$5,047,986
Annual average per adviser burden	27.06 hours / RIA			4.28 hours / ERA

The currently approved total annual collection of information burden estimate for investment advisers registered with the Commission or applying for registration with the Commission and exempt reporting advisers to file and complete the Form ADV (Parts 1, 2, and 3), including private fund reporting, plus the burden associated with amendments to the form,

¹³ See Form CRS Relationship Summary; Amendments to Form ADV, Release No. IA-5247 (June 5, 2019), 84 FR 33669 (July 12, 2019).

¹⁴ See Updated Supporting Statement for PRA Submission for Amendments to Form ADV Under the Investment Advisers Act of 1940 (the “Approved Form ADV PRA”).

preparing brochure supplements and relationship summaries, and delivering codes of ethics to clients is estimated to be approximately 365,329 hours per year, for a monetized total of \$100,409,140. The total annual collection of information burden for exempt reporting advisers to file and complete the required Items of Part 1A of Form ADV is estimated to be 18,323 hours per year, for a monetized total of \$5,047,986. This results in an annual blended average per adviser burden for Form ADV of 21.55 hours, (for a monetized total of \$5,925 per adviser), which consists of an average annual burden of 27.06 hours for each of the estimated 13,500 SEC registered advisers, and 4.28 hours for each of the estimated 4,300 exempt reporting advisers.

Based on updated IARD system data as of March 31, 2020, we estimate that the number of registered investment advisers that are required to complete, amend, and file Form ADV (Part 1 and Part 2) with the Commission, but who are not obligated to prepare and file relationship summaries as of the applicable compliance date for Form ADV Part 3, is 5,000, and we also continue to believe, based on IARD system data, that that 500 new advisers will register with us annually, 185 of which will not be required to prepare a relationship summary.¹⁵ Based on updated IARD system data as of March 31, 2020, we estimate that the number of registered investment advisers that are required to complete, amend, and file Form ADV (Part 1 and Part 2) *and* prepare and file relationship summaries as of the applicable compliance date for Form ADV Part 3, is 8,500, and we continue to believe, based on IARD system data, that that 500 new advisers will register with us annually, 315 of which will be required to prepare a relationship

¹⁵ *See id.*

summary.¹⁶ Based on updated IARD system data as of March 31, 2020, we estimate that the number of exempt reporting advisers is 4,300; however, we continue to believe that, based on IARD system data, there would be 300 new exempt reporting advisers annually.¹⁷

As a result of the proposed amendments to Form ADV Part 1A discussed above, we estimate that the average total annual collection of information burden for registered investment advisers will increase 0.5 hours to 27.56 hours per registered investment adviser per year for Form ADV. We do not expect that the proposed amendments would increase or decrease the currently approved total burden estimate of 4.28 per exempt reporting adviser completing Form ADV.

The currently approved annual aggregate burden for Form ADV for all registered advisers and exempt reporting advisers is 383,652 hours, for a monetized cost of \$105,457,126.¹⁸ This is an annual blended average per adviser burden for Form ADV of 21.55 hours, and \$5,925 per adviser.¹⁹ Factoring in the proposed new questions on Part 1 of Form ADV that would be required for all registered investment advisers (but not for exempt reporting advisers), the revised annual aggregate burden hours for Form ADV (Parts 1, 2 and 3) for all registered advisers and exempt reporting advisers would be 390,383 hours per year, with a monetized value of

¹⁶ *See id.*

¹⁷ *See Id.*

¹⁸ *Id.*, at footnotes 45-46 and accompanying text.

¹⁹ *Id.*, at footnotes 47-48 and accompanying text.

\$107,470,792.²⁰ This would be an aggregate increase of 6,731 hours, or \$2,013,666 in the monetized value of the hour burden, from the currently approved annual aggregate burden estimates, increases which are attributed to the factors described above.

Estimated new annual hour burden for advisers:

	Registered Investment Advisers			Exempt Reporting Advisers
	<i>Subject to Form ADV Parts 1 and 2</i>	<i>Subject to Form ADV Part 3</i>	<i>Advisers to private funds</i>	
Number of advisers included in the currently approved burden	13,500 advisers + 500 expected newly registered RIAs annually	8,500 advisers + 315 expected newly registered RIAs annually	4,863 advisers + 115 expected newly registered RIAs annually	4,300 + 300 expected new ERAs annually
<i>Annual Burden Hours</i>				
Prepare and file Form ADV Parts 1 and 2	136,360 hours			5,520 hours
Prepare and file Form ADV Part 3		24,241 hours		
Updating Forms/brochures	139,804 hours (Part 1) + 27,000 (Part 2) = 166,804 hours	14,535 hours		6,470 hours
Deliver Code of Ethics	17,550 hours			
Private fund reporting			12,570 hours	6,333 hours
<i>Totals</i>				
Burden hours	372,060 hours			18,323 hours
Monetized cost	\$102,422,806			\$5,047,986
Annual average per adviser burden	27.56 hours / RIA			4.28 hours / ERA

The table below provides a summary of the burden estimates:

²⁰ We expect that most Commission registered advisers, the performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager, or persons performing similar functions. Data from the SIFMA Management and Professional Earnings Report, modified to account for a 1,800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, and adjusted for inflation, suggest that the costs for these positions are \$239 and \$312 per hour, respectively. $(195,192 \times \$239) + (195,192 \text{ hours} \times \$312) = \$107,470,792$. For a SEC registered investment adviser that does not already have a senior compliance or a compliance manager, we expect that a person performing a similar function would have similar hourly costs.

BURDEN ESTIMATES FOR FORM ADV

IC	Amendments to Form ADV under the Investment Advisers Act of 1940	Annual No. of Responses			Annual Time Burden (Hrs.)			Monetized Time Burden (\$)		
		<i>Previously approved</i>	<i>Requested Change Due to Agency Discretion</i>	<i>Total</i>	<i>Previously approved</i>	<i>Requested Change Due to Agency Discretion</i>	<i>Total</i>	<i>Previously approved</i>	<i>Requested Change Due to Agency Discretion</i>	<i>Total</i>
IC1	Form ADV (Parts 1, 2, and 3), including private fund reporting, plus amendments to the form, preparing brochure supplements and relationship summaries, and delivering codes of ethics to clients	17,800	0	17,800	383,652	6,731	390,383	105,457,126	2,013,666	107,470,79
Total for IC		17,800	0	17,800	383,652	6,731	390,383	105,457,126	2,013,666	107,470,79

13. Cost to Respondents

The currently approved annual cost burden for Form ADV is \$13,822,389, or \$777 per registered adviser.²¹ We do not estimate any additional change due to the proposed amendments discussed above.

14. Cost to the Federal Government

There are no costs to the government directly attributable to Form ADV.

15. Change in Burden

We estimate that the proposed amendments to Form ADV will result in a the revised annual aggregate burden hours for Form ADV (Parts 1, 2 and 3) for all registered advisers and exempt reporting advisers would be 390,383 hours per year, with a monetized value of \$107,470,792.²² This would be an aggregate increase of 6,731 hours, or \$2,013,666 in the monetized value of the hour burden, from the currently approved annual aggregate burden estimates, increases which are attributed to the factors described above.

²¹ \$2,069,259 for preparation of Form ADV Part 2 + \$10,986,500 for registered investment advisers to fair value their private fund assets + \$766,630 for preparation of relationship summary on Form ADV Part 3 = \$13,822,389 in total external costs for Form ADV. $\$13,822,389 / (13,500 \text{ registered advisers} + 4,300 \text{ exempt reporting advisers}) = \$777 \text{ per registered adviser.}$

²² We expect that most Commission registered advisers, the performance of this function will most likely be equally allocated between a senior compliance examiner and a compliance manager, or persons performing similar functions. Data from the SIFMA Management and Professional Earnings Report, modified to account for a 1,800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, and adjusted for inflation, suggest that the costs for these positions are \$239 and \$312 per hour, respectively. $(195,192 \times \$239) + (195,192 \text{ hours} \times \$312) = \$107,470,792$. For a SEC registered investment adviser that does not already have a senior compliance or a compliance manager, we expect that a person performing a similar function would have similar hourly costs.

These increases are the result of the addition of the proposed Advertising Activities Items and changes in the adviser population discussed above. We do not estimate any change to approved external costs to respondents.

16. Information Collection Planned for Statistical Purposes

Not applicable.

17. Approval to Omit OMB Expiration Date

We request authorization to omit the expiration date on the electronic version of the form, although the OMB control number will be displayed. Including the expiration date on the electronic version of this form will result in increased costs, because the need to make changes to the form may not follow the application's scheduled version release dates.

18. Exceptions to Certification Statement for Paperwork Reduction Act Submission

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.