

Instruction 8(c) states that accounts over which an adviser

has discretionary authority and for which it provides ongoing supervisory or management services receive continuous and regular supervisory or management services. The Commission expects that most discretionary accounts would meet this standard. In addition, a limited number of non-discretionary advisory arrangements may receive continuous and regular supervisory or management services, but only if the adviser "has an 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, is responsible for arranging or effecting the purchase or sale." <<30>> Thus, an advisory relationship under which the adviser does not have discretionary authority must assign to the adviser other responsibilities typically associated with a discretionary account. <<31>>

Instruction 8(c) provides three factors that advisers should use (and which the Commission will use) in applying these general principles. These factors are the terms of the advisory

<<30>> See Instruction 8(c).

<<31>> To enable the Commission to evaluate the claims of advisers relying on the non-discretionary management of assets as the basis of eligibility to remain registered with the Commission, Form ADV-T requires these advisers to append a written statement explaining the nature of the non-discretionary supervisory or management services. See Part III, Item (c) of Form ADV-T; Instruction 9 to Form ADV-T.