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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91233311
Party	Defendant Gilead Capital LP
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Date	01/02/2018
Attachments	2018-01-02 Motion to Amend Standard Protective Order.pdf(255611 bytes) 2018-01-02 Leung Declaration ISO Motion to Amend Standard Protective Order.pdf(1987414 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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EJW/lw

Opposition No. 91233311 (Parent)
Opposition No. 91233327

Gilead Sciences, Inc.

v.

Gilead Capital LP

APPLICANT GILEAD CAPITAL'S
MOTION TO AMEND THE STANDARD PROTECTIVE ORDER

PRELIMINARY STATEMENT

This is a case that warrants modification of the Board's standard protective order because Applicant Gilead Capital's in-house counsel is the sole attorney defending the case and needs access to all the information produced in order for Gilead Capital to have a full and fair opportunity to be heard. Permitting in-house counsel to access Opposer's trade secret or commercially sensitive information would not create an unacceptable risk of disclosure or misuse of the information for several reasons.

First, Applicant's in-house counsel has sworn that she would not knowingly or intentionally disclose or use the information in violation of a protective order.

Second, Applicant's in-house counsel has the experience and knowledge to implement security safeguards to prevent unauthorized access to Opposer's documents, such that there is a low risk of inadvertent disclosure.

Third, Applicant's in-house counsel is not involved in competitive decision making because the parties are not competitors, and therefore, she cannot (mis)use any of Opposer's information to obtain unfair competitive advantage. Applicant is an investment management firm, while Opposer is a pharmaceutical company. Applicant has neither the ability nor the incentive to use Opposer's proprietary information to advance its own commercial interests at the expense of Opposer. The reasoning for a two-tiered protective order simply does not apply.

Fourth, even if the parties were competitors—and they are not—Applicant's in-house counsel does not participate in competitive decision making at Gilead Capital. She does not participate in investment decisions, but rather, performs primarily legal and compliance functions, and her operational roles are either compliance-related or administrative.

Accordingly, good cause does not exist for imposing the burdens of attorneys-eyes-only restrictions in this case and they should be removed from the Protective Order.

STATEMENT OF FACTS

The Parties

Applicant Gilead Capital LP ("Applicant," "Gilead Capital," or the "Firm") is an investment adviser, registered with the Securities and Exchange Commission ("SEC") (SEC File No. 801-107184), as a large advisory firm with regulatory assets under management of more than $100 million. *See* Leung Decl. ¶ 9.[1] Gilead Capital provides discretionary investment advice and management services to certain institutional clients pursuant to investment management agreements. Investment in separately managed accounts or private funds managed by Gilead Capital is generally only available to institutional investors and certain high net worth individuals that are "accredited investors," "qualified clients," and "qualified purchasers," or non-"U.S. persons" within the meaning of the Securities Act of 1933 ("Securities Act"), the Investment Advisers Act of 1940 ("Advisers Act"), and the Investment Company Act of 1940 ("Investment Company Act"). *See id.* ¶ 10. Gilead Capital does not provide services to general consumers or retail investors who do not meet the criteria for accredited investors, qualified clients, or qualified purchasers. The Firm does not engage in general advertising, but rather, relies on its partners' existing personal and professional networks for introductions to potential investors. *See id.* ¶ 11.

Gilead Capital employs an investment strategy of "Leadership Investing," which combines the principles of long-term value investing with responsible active ownership. The

[1] The Declaration of Kanchana Wangkeo Leung, Esq. In Support Of Gilead Capital's Motion to Amend the Standard Protective Order is referred to herein as the "Leung Decl."

Firm takes meaningful stakes in a concentrated group of companies that it believes has underachieved their business and valuation potential and works productively with management teams, boards of directors, and other stakeholders over long-term holding periods to elevate corporate achievement and valuation by enhancing governance, strengthening management, and improving strategy and execution. *See* Leung Decl. ¶ 12. The Firm believes that its constructive investment approach is distinguishable from traditional activist investing and owns U.S. Registration No. 5127612 for "Leadership Investing" in connection with "[h]edge fund investment services; [i]nvestment advisory services; [i]nvestment management; [f]inancial services, namely, operation and management of hedge funds, commodity pools and other collective investment vehicles, and trading for others of securities, options, futures, derivatives, debt instruments and commodities." *See id.* ¶ 13.

In selecting investments, Gilead Capital focuses on companies with small to mid-market capitalizations and invests across a broad spectrum of industries in developed markets, including but not limited to, North America, developed Europe, and Australia. The Firm invests primarily in equity and equity-linked securities of an issuer, and may also invest in corporate debt securities and derivatives. In addition, the Firm may utilize financial instruments such as futures, forward contracts, stock index futures and options, and swaps, caps, and floors both for investment purposes and to seek to hedge against changes in currency exchange rates, market interest rates, and equity prices. *See* Leung Decl. ¶ 14. In short, Gilead Capital is in the business of investing. *See id.* ¶ 15.

In contrast, Opposer Gilead Sciences, Inc. ("Opposer") is a pharmaceutical company. In its 2016 Annual Form 10-K, Opposer describes its business as follows:

> Gilead Sciences, Inc. (Gilead, we or us), incorporated in Delaware on June 22, 1987, is a research-based biopharmaceutical company that discovers, develops and

> commercializes innovative medicines in areas of unmet medical need. . . . Gilead's primary areas of focus include human immunodeficiency virus (HIV), liver diseases such as chronic hepatitis C virus (HCV) infection and chronic hepatitis B virus (HBV) infection, hematology/oncology, cardiovascular and inflammation/respiratory diseases. We seek to add to our existing portfolio of products through our internal discovery and clinical development programs and through product acquisition and in-licensing strategies.

Leung Decl., Ex. 4 at 3.

Opposer states that its "products are marketed through [its] commercial teams and/or in conjunction with third party distributors and corporate partners. [Opposer's] commercial teams promote [its] products through direct field contact with physicians, hospitals, clinics and other healthcare providers." *Id.*, Ex. 4 at 7. Opposer sells and distributes its products "in the United States exclusively through the wholesale channel. [Its] product sales to three large wholesalers, McKesson Corporation, AmerisourceBergen Corporation and Cardinal Health, Inc. each accounted for more than 10% of total revenues for each of the years ended December 31, 2016, 2015 and 2014. On a combined basis, in 2016, these wholesalers accounted for approximately 88% of [its] product sales in the United States and approximately 56% of [its] total worldwide revenues." *Id.*, Ex. 4 at 7.

Furthermore, in a section entitled "Competition," Opposer states that its

> marketed products target a number of areas, including HIV, liver diseases, cardiovascular, hematology/oncology, inflammation/respiratory and other diseases. There are many commercial products for the treatment of these diseases. [Opposer] face[s] **significant competition from large global pharmaceutical and biotechnology companies, specialized pharmaceutical firms and generic drug manufacturers.** [Its] products compete with other available products based primarily on efficacy, safety, tolerability, acceptance by doctors, ease of patient compliance, ease of use, price, insurance and other reimbursement coverage, distribution and marketing. As [Opposer's] products mature, private insurers and government payers often reduce the amount they will reimburse patients, which increases pressure on [Opposer] to reduce prices. Further, as new branded or generic products are introduced into major markets, [Opposer's] ability to maintain pricing and market share may be affected. *Id.*, Ex. 4 at 8 (emphasis added).

Opposer specifically identifies its competitors for its existing products as AbbVie Inc., Merck & Co. Inc., Bristol-Myers Squibb, Janssen Therapeutics, ViiV, Pharmacyclics LLC, Genentech, Cephalon, Inc., Actelion Pharmaceuticals US, Inc., United Therapeutics Corporation, Pfizer, Novartis, and GlaxoSmithKline. *See id.*, Ex. 4 at 31-32 (identifying competing products and their manufacturers). Opposer also acknowledges competition from generic drug manufacturers and specialty pharmaceutical firms and large pharmaceutical companies that are pursuing the development of technologies which are competitive with existing products or research programs. *See id.*, Ex. 4 at 32.

Experience and Role of Gilead Capital's In-House Counsel

Gilead Capital is being represented in its trademark applications (Application Nos. 87048887 and 87048941) and these proceedings by its in-house counsel, Kanchana Wangkeo Leung. Ms. Leung joined the Firm in May 2016 as its Chief Legal Officer ("CLO"), Chief Compliance Officer ("CCO"), and Chief Operating Officer ("COO").

Among other qualifications, Ms. Leung has 15 years of litigation experience. *See* Leung Decl. ¶ 2. She was previously a litigation partner at the law firm of Kasowitz, Benson, Torres & Friedman LLP and had also practiced at Simpson Thacher & Bartlett LLP and Cohen, Milstein, Hausfeld & Toll PLLC. She clerked for the Honorable Shira A. Scheindlin—who is known as the "e-discovery judge"—in the United States District Court for the Southern District of New York, and co-wrote a law review article with the judge regarding electronic discovery sanctions. *See id.*

Accordingly, Ms. Leung has extensive experience in all facets of discovery. As relevant to this motion, her discovery experience includes managing document productions and reviews involving several terabytes of data and teams of more than 100 attorneys; securely handling

documents containing highly confidential information (*e.g.*, trade secrets) as well as highly sensitive non-public personal information (*e.g.*, social security numbers, bank account numbers); and compliance with protective orders. *See* Leung Decl. ¶ 3. Ms. Leung has worked closely with external e-discovery vendors, litigation support staff, and copy services to ensure that documents are processed and maintained properly and in accordance with any court orders. *See id.* This includes overseeing at least twelve security audits of vendors, consultants, and expert witnesses. The security audits entailed onsite visits, reviews of physical security and cybersecurity measures, and interviews of information technology staff. *See id.* In all her years of practice, Ms. Leung has never been accused of—let alone sanctioned for—violation of a protective order. *See id.*

For these proceedings, Gilead Capital has retained a professional e-discovery services firm to assist with document discovery. Given that its business depends on the security of its services, the e-discovery vendor is also willing and able to comply with any applicable protective order. *See* Leung Decl. ¶ 4.

Among other measures, documents produced in these proceedings will be maintained on secure servers that are separate from the servers that Gilead Capital uses for its business. *See* Leung Decl. ¶ 5. Access to Opposer's documents will be restricted to prevent unauthorized access by third parties or by business persons within Gilead Capital. *See id.* In her capacity as counsel in these proceedings, Ms. Leung would be the only person within Gilead Capital to have access to produced documents. *See id.* Ms. Leung is an officer of the court and would not knowingly disclose or use any information in violation of a protective order. *See id.*

Currently, five people work at Gilead Capital. Four are investment professionals (the Chief Investment Officer, the Director of Research, and two analysts) who are responsible for

investment decisions. *See* Leung Decl. ¶ 16. The investment process and decision-making includes researching companies, forming opinions as to value and opportunities, making decisions to trade or invest (*e.g.*, whether to buy, sell, or hold; the timing, quantity, and price of such purchases or sales; and the duration of positions), and negotiation and execution of trades. *See id.* ¶ 15.

Ms. Leung does not participate in making investment decisions. However, as CLO/CCO, she performs a legal and compliance function to ensure that Applicant's investment process and decisions comply with the law. She can prohibit or approve trades for legal or compliance reasons, but she does not otherwise provide investment input. *See* Leung Decl. ¶ 17.

Registered investment advisers, such as Gilead Capital, are required to adopt and implement policies and procedures reasonably designed to prevent violations of the Advisers Act and to designate a CCO to administer such policies and procedures. 17 C.F.R. § 275.206(4)-7.

Ms. Leung administers the policies and procedures set forth in Gilead Capital's Compliance Manual and Code of Ethics ("Compliance Manual"). *See* Leung Decl. ¶ 19. The Compliance Manual covers, among other things, portfolio management processes, disclosures to investors, proprietary trading, prohibitions against insider trading, personal securities transactions, conflicts of interest, safeguarding of client assets, creation and maintenance of required records, privacy protections, and business continuity and disaster recovery plans. *See id.* Thus, for example, Ms. Leung maintains a "restricted list" of securities in which neither the Firm nor its employees may trade, and she pre-approves personal securities trades of employees to prevent insider trading or front running. She maintains the books and records required of investment advisers, such as documentation of proxy vote decisions, trade confirmations, and accounting records. She reviews disclosure documents. And, she oversees trading practices

regulated under the Advisers Act (*e.g.*, best execution; allocation of aggregated trades, fees, and expenses among clients). *See id.* Ms. Leung provides legal advice on such topics, as well as on other matters as they arise. *See id.* ¶ 20. She is also generally responsible for regulatory compliance, which encompasses filing required reports (*e.g.*, Form ADV) and other disclosures relating to the Firm's trading (*e.g.*, Schedule 13-D and Schedule 13-G), interfacing with regulators, and monitoring applicable legal developments. *See id.*

In addition, as COO/CLO, Ms. Leung is responsible for certain operational matters that are part of the Compliance Manual—to wit, maintenance of books and records, retention of electronic communications, administering anti-money laundering policies, and implementing disaster recovery and business continuity plans. *See* Leung Decl. ¶ 21. Her other operational roles are largely administrative. She oversees back office and middle office functions, which includes the logistics of processing trades, such as providing account numbers and settlement instructions to the custodian or executing brokers. *See id.* ¶ 22. She processes payroll, invoices, and reimbursements, and she administers the firm's 401(k) plan and other benefits. *See id.*

Opposer's Outside Counsel

Opposer is represented in these proceedings by Lisa Greenwald-Swire, an attorney at the law firm of Fish & Richardson ("FR"). Upon information and belief, FR has a long-standing attorney-client relationship with Opposer, as well as with other pharmaceutical and/or life sciences companies, including but not limited to, Allergan, Biogen Inc., Genzyme Corp. (SanofiGenzyme), and Repligen Corp. *See* Leung Decl., Ex. 5. One or more of these other clients may compete with Opposer. For example, Opposer and Genzyme both develop and manufacture cancer drugs, while Opposer is facing competition from Allergan in the treatment of a liver disease, non-alcoholic steatohepatitis (NASH). *See id.*, Ex. 5 at 4, 6; Ex. 6; Ex. 7.

PROCEDURAL HISTORY

On November 20, 2017, the parties held their discovery conference, in which they discussed the Board's Standard Protective Order ("Protective Order"), among other issues. Counsel for Gilead Capital proposed amending the Protective Order to provide for the clawback of privileged documents and to omit the provisions relating to "Confidential – Attorneys' Eyes Only" ("AEO") documents. With respect to the latter proposal, Ms. Leung explained that she is representing Applicant in these proceedings and Applicant does not intend to retain outside counsel. Ms. Leung also described the methods by which she could restrict access to Opposer's documents in order to prevent inadvertent disclosure to third parties, as well as to other persons at Gilead Capital who do not have a need to know. Ms. Greenwald-Swire expressed generalized concerns about Gilead Capital's in-house counsel having access to AEO documents and a preference for maintaining the standard Protective Order. Ms. Greenwald-Swire proposed that Gilead Capital should hire outside counsel to receive AEO documents. Ms. Leung responded that the proposal was impractical and burdensome because she is handling the main defense of the case and restricting access to certain documents would prejudice her ability to defend Gilead Capital. The parties agreed to revisit the issue after the Thanksgiving holiday. *See* Leung Decl. ¶ 23.

On December 12, 2017, the parties convened another teleconference, in which Ms. Leung described her roles and responsibilities and requested that Opposer reconsider its position in light of the additional information provided. *See* Leung Decl. ¶ 24. Nineteen days later, Ms. Greenwald-Swire finally confirmed that Opposer would not. The parties have reached an impasse, necessitating this motion.

ARGUMENT

One of the fundamental purposes of a protective order is to ensure that documents produced in discovery are used only in the litigation in which they are produced. Such provisions protect the producing party against the possibility that, in the absence of some legal process or other court order, the receiving party will share the documents of the producing party with some third party. *See In re Deutsche Bank Trust Co.*, 605 F.3d 1373, 1378 (Fed. Cir. 2010) ("Typically, protective orders include provisions specifying that designated confidential information may be used only for purposes of the current litigation. Such provisions are generally accepted as an effective way of protecting sensitive information while granting trial counsel limited access to it for purposes of the litigation.").

Under Federal Rule of Civil Procedure 26(c), courts may enter protective orders "for good cause" "requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way." Fed. R. Civ. P. 26(C)(1)(G). *See U.S. Steel Corp. v. United States*, 730 F.2d 1465, 1468 (Fed. Cir. 1984) ("Meaningful increments of protection are achievable in the design of a protective order."). Thus, in some cases, two-tiered protective orders grant heightened protection to trade secrets or commercially sensitive information by prohibiting in-house attorneys of the parties from accessing documents designated as "highly confidential" or "attorneys' eyes only." "Attorney's-eyes-only protection is usually employed to protect against *business harm* that would result from disclosure of sensitive documents *to a competitor*." *Martinez v. City of Ogden*, No. 1: 08 cv00087, 2009 WL 424785, at *2 (D. Utah Feb. 18, 2009) (emphasis added); *Suture Express, Inc. v. Cardinal Health, 200, LLC*, No. 12-2760, 2013 WL 6909158, at *3 (D. Kan. 2013) (finding good cause to enter two-tiered protective order because the parties were business

competitors for the sale of medical-surgical products and disclosure of proprietary information "may impact each respective party's competitive position in the marketplace").

The added restrictions may be warranted because disclosure to a competitor is more harmful than disclosure to a noncompetitor. *See American Standard Inc. v. Pfizer, Inc.*, 828 F.2d 734, 741 (Fed. Cir. 1987) (recognizing presumption of courts); *Coca-Cola Bottling Co. of Shreveport, Inc. v. Coca-Cola Company*, 107 F.R.D. 288, 293 (D. Del. 1985) ("it is presumed that disclosure to a party who is not in competition with the holder of the trade secret will be less harmful than disclosure to a competitor"); *United States v. United Fruit Co.*, 410 F.2d 553, 557 n.11 (5th Cir. 1986) (company would be harmed by disclosure of financial and marketing data to competitors). A competitor may have the ability and the incentive to use the disclosing party's proprietary information to advance its own commercial interests. *E.g., Eagle Comtronics, Inc. v. Arrow Commc'n Labs., Inc.*, 305 F.3d 1303, 1314 (Fed. Cir. 2002) (receiving party copied competitor's patent application obtained through discovery and submitted it as own); *cf. Roquette Fréres S.A. v. Solazyme, Inc.*, No. 15-4030, 673 Fed. Appx. 219 (3d Cir. 2016) (party in joint venture surreptitiously filed patent applications on its own behalf all over the world, based on patent applications filed by the joint venture but with none of the other party's employees listed as inventors).

Whether internal counsel should be precluded from accessing trade secrets or commercially sensitive information "must be determined … by the facts on a counsel-by-counsel basis, and cannot be determined by giving controlling weight to the classification of counsel as in-house rather than retained." *U.S. Steel Corp.*, 730 F.2d at 1468. "Denial or grant of access [] cannot rest on a general assumption that one group of lawyers are more likely or less likely inadvertently to breach their duty under a protective order," for "retained counsel often have long

relationships with their clients and may engage in employee-like activities." *Id.* Like retained counsel, in-house counsel are officers of the court, are bound by the same ethical rules, are subject to the same sanctions, and face the same problem and importance of inadvertent disclosure. *See id.* Nor is a person's status as a corporate officer sufficient to prohibit access to confidential information. *See Matsushita Electric Industrial Co., Ltd. v. United States*, 929 F.2d 1577 (Fed. Cir. 1991) (general counsel who was also senior vice-president and secretary of corporation properly granted access to proprietary business information).

In a particular case, it may be appropriate to deny in-house counsel's access to confidential information where she is "involved in competitive decisionmaking." *U.S. Steel Corp.*, 730 F.2d at 1468; *see also* TBMP § 412.02(b). This is so because where a person participates in competitive decision making, there is a risk that the individual would be "unable to compartmentalize the information and not use the information to seek to gain an unfair competitive advantage." *Suture Express*, 2013 WL 6909158 at *7. "Competitive decisionmaking" is "shorthand for a counsel's activities, association, and relationship with a client that are such as to involve counsel's advice and participation in any or all of the client's decisions (pricing, product design, etc.) made *in light of similar or corresponding information about a competitor.*" *Id.* at 1468 n.3 (emphasis added). Even if a tribunal is satisfied that a risk of inadvertent disclosure or competitive use exists, it "must balance this risk against the potential harm to the opposing party from restrictions imposed on that party's right to have the benefit of counsel of its choice." *In re Deutsche Bank Trust*, 605 F.3d at 1380.

Access by In-House Counsel Does Not Pose An Unacceptable Risk of Intentional Disclosure or Misuse of Opposer's Trade Secret or Commercially Sensitive Information

As a threshold matter, there is no reasonable risk of intentional disclosure or misuse of Opposer's information which would justify keeping in place the Protective Order's provisions

regarding Confidential – Attorneys Eyes Only documents. Ms. Leung is an officer of the court, is bound by the ethical rules applicable to attorneys, and is subject to sanctions for violation of court orders. She has represented that she would not knowingly or intentionally disclose or use Opposer's information in violation of a protective order. *See* Leung Decl. ¶ 5. There is no basis to doubt her representation. Thus, any speculation by Opposer that Ms. Leung cannot be trusted with its documents should be summarily rejected.

Nor Does Access by In-House Counsel Pose An Unacceptable Risk of Inadvertent Disclosure or Misuse of Opposer's Trade Secret or Commercially Sensitive Information

Likewise, permitting Ms. Leung to have access to Opposer's trade secret and commercially sensitive information does not pose an unacceptable risk of inadvertent disclosure or misuse. Ms. Leung has the experience and ability to implement procedures and controls to keep Opposer's documents secure. She was formerly a litigation partner at a large New York law firm, and over the course of 15 years, has managed numerous cases, involving terabytes of data, including documents containing highly confidential commercial information, as well as highly sensitive non-public personal information. *See* Leung Decl. ¶¶ 2-3. She has worked closely with e-discovery vendors, litigation support staff, and copy services in connection with document discovery, and has complied with protective orders without incident. *See id.* ¶ 3. Furthermore, she has begun implementing safeguards for documents produced in these proceedings. Gilead Capital has retained a professional e-discovery services firm, which is also willing and able to comply with any applicable protective order. *See id.* ¶ 4. The e-discovery firm, as well as any other expert, consultant, non-party witness, or other individual not specifically covered, will be required to sign onto the Protective Order before being afforded access to confidential information. Opposer's documents will be maintained on secure servers that are separate from those used by Gilead Capital for its business, and access will be restricted

to prevent unauthorized access by third parties or business persons within Gilead Capital. *See id.* ¶ 5. Thus, the risk of unauthorized access to Opposer's confidential information is extremely low.

Furthermore, Opposer lacks good cause to restrict Ms. Leung's access to its trade secret and commercially sensitive information because she is not involved in competitive decision-making and precluding her from accessing all information in the case would prejudice her ability to defend Gilead Capital in violation of Applicant's due process rights.

First and foremost, Ms. Leung is not involved in competitive decision making because the parties are not competitors, and she cannot (mis)use any of Opposer's information to obtain unfair competitive advantage. Gilead Capital is an investment management firm, whereas Opposer is a pharmaceutical company. They do not provide goods or services in the same markets. Gilead Capital provides investment *services* to certain institutional investors and high net worth individuals. Opposer sells pharmaceutical *goods* to wholesale distributors of drugs. Indeed, Opposer states that its competitors are large global pharmaceutical and biotechnology companies, specialized pharmaceutical firms, and generic drug manufacturers, and identifies many of them by name. *See generally United States v. E.I. du Pont de Nemours and Co.*, 76 S.Ct. 994, 1006 (1956) (discussing whether a competitive market exists for a product, considering such factors as how different commodities are from one another and how far buyers will go to substitute one commodity for another); Merriam-Webster Dictionary (defining "competitor" as "one selling or buying goods or services in the same market as another"). Given that Gilead Capital does not participate—let alone compete in—the same market as Opposer, Ms. Leung does not make competitive decisions vis-à-vis Opposer.

This conclusion becomes even clearer when one considers the questions: What decisions could she possibly make while in possession of Opposer's confidential information that would result in transferring market share from Opposer to Gilead Capital? Are the parties subject to the same regulatory regime (*e.g.*, rules promulgated under the Investment Advisers Act)? If Opposer competes in the market for investment services, why isn't it a material omission for Opposer not to disclose it in its public filings or to identify other investment management firms as its competitors? Would Opposer be harmed more by disclosure of its information to Ms. Leung or to its counsel's other pharmaceutical/life sciences clients?

Because the rationale behind the attorneys'-eyes-only restriction is inapplicable, the Protective Order should be modified to remove the AEO provisions. *See MGP Ingredients, Inc. v. Mars, Inc.*, 245 F.R.D. 497, 500 (D. Kan. 2007) (holding that two-tiered protective order to restrict in-house attorneys or patent agents from viewing "highly confidential information" was not warranted where the parties were not direct competitors); *Intervet, Inc. v. Merial Ltd.*, 241 F.R.D. 55 (D.D.C. 2007) (entering protective order that did not preclude in-house counsel from accessing all materials in discovery because she was not a competitive decision-maker); *Volvo Penta of the Americas, Inc. v. Brunswick Corp.*, 187 F.R.D. 240, 242 (E.D. Va. 1999) (competitive decision-making involves decisions that affect contracts, marketing, employment, pricing, product design and other decisions made in light of similar corresponding information about a competitor); *Glaxo Inc. v. Genpharm Pharm, Inc.*, 796 F. Supp. 872, 876 (E.D.N.C. 1992) (improper to preclude in-house counsel from access to confidential information because he gave no advice to his client about competitive decisions such as pricing, scientific research, sales, or marketing); *cf. In re Deutsche Bank Trust*, 605 F.3d at 1381 (party seeking imposition of a patent prosecution bar must show that the information designated to trigger the bar, the

scope of activities prohibited by the bar, the duration of the bar, and subject matter covered by the bar reasonably reflect the risk presented by the disclosure of proprietary competitive information).

Even if the parties were competitors—and they are not—Ms. Leung does not participate in competitive decision making at Gilead Capital. As discussed above, the investment team makes investment decisions. *See* Leung Decl. ¶¶ 15-16. In contrast, Ms. Leung performs legal and compliance functions, as well as some operational tasks that are largely administrative. *See id.* ¶¶ 17-23. As CLO/CCO, she administers Gilead Capital's Compliance Manual, is generally responsible for regulatory compliance, and provides legal advice on matters as they arise. *See id.* As COO, she also implements certain parts of the compliance policies, such as the business continuity plan, as well as performing human resources-related responsibilities within the organization. *See id.* ¶¶ 21-22. To the extent she affects investments decisions, it is merely to ensure compliance with the law. *See id.* ¶ 17. These are not competitive decisions, however, because all businesses are required to act lawfully.

Restricting Access to Opposer's Trade Secret or Commercially Sensitive Information Would Impose An Undue Burden on Gilead Capital

Opposer's insistence on keeping information from Gilead Capital's in-house counsel implicates Applicant's due process rights to have a full and fair opportunity to litigate. A party may be bound by litigation only if it has had a "full and fair opportunity" to litigate the claim or issue, including an "opportunity to be heard." *See Kremer v. Chemical Const. Corp.*, 456 U.S. 461, 480-81 (1982); *Hansberry v. Lee*, 311 U.S. 32, 40 (1940). This includes a chance to present evidence and arguments on the claim or defense. *See Blonder-Tongue Labs., Inc. v. Univ. of Ill. Foundation*, 402 U.S. 313, 329 (1971). Restrictions on access to information that may constitute or lead to evidence and arguments may hamper the party's participation and effectively deny the

party the right to assist in its own litigation, which could be a denial of due process. *See Standard Space Platforms Corp. v. U.S.*, 35 Fed. Cl. 505, 509 (1996). In order to make due process rights a reality, Gilead Capital's in-house counsel needs access to all the information which will be used in the decision of Opposer's claims.

Preventing Gilead Capital's in-house counsel from accessing all the information in the proceedings would prejudice Applicant's ability to defend itself. Ms. Leung has been representing Applicant since the inception of the proceedings. She is already familiar with the facts and legal issues, and given the abbreviated discovery schedule, will need to make decisions quickly. Opposer's proposal that Gilead Capital retain outside counsel to handle AEO documents is unworkable because Applicant's internal counsel is the main attorney defending the case. Ms. Leung's ability to write or respond to briefs, take or defend depositions, or implement legal strategy generally, would be hampered if she is restricted from seeing all documents. For example, if Opposer uses AEO documents in a brief, it would be difficult for Ms. Leung to respond to a redacted legal memorandum. If Opposer uses AEO documents in a deposition, Ms. Leung must arguably leave the room, which is a non-starter if she is defending a witness. The procedural gymnastics that would have to occur are completely unwarranted in a case such as this, where in-house counsel is not involved in competitive decision making and Applicant's due process rights would be compromised. *See Martinez*, 2009 WL 424785 at *3 (plaintiff permitted to have access to all information in order to be able to direct his own litigation); *Volvo Penta*, 187 F.R.D. at 242 (in-house counsel permitted access because not involved in competitive decisionmaking and outside counsel needed her assistance in making quick tactical decisions considering brisk pace of litigation).

CONCLUSION

For the reasons set forth above, Gilead Capital respectfully requests that the Standard Protective Order be amended to permit its in-house counsel to have access to all information in these proceedings, including material that would fall within the definition of "Confidential – Attorneys' Eyes Only (Trade Secret/Commercially Sensitive)" information, and to remove all other distinctions between in-house counsel and outside counsel.[2]

Dated: January 2, 2018
New York, New York

Respectfully submitted,

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[2] Paragraph 16 of the Protective Order permits retention of archival copies of evidence, memoranda, discovery deposition transcripts, testimony deposition transcripts, affidavits, declarations, and briefs "solely by outside counsel."

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DECLARATION OF KANCHANA WANGKEO LEUNG, ESQ.
IN SUPPORT OF GILEAD CAPITAL'S
MOTION TO AMEND THE STANDARD PROTECTIVE ORDER

I, KANCHANA WANGKEO LEUNG, an attorney in good standing, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am the Chief Legal Officer ("CLO"), Chief Compliance Officer ("CCO"), and Chief Operating Officer ("COO") of Applicant Gilead Capital LP ("Applicant," "Gilead Capital," or the "Firm"). I represent Gilead Capital in its trademark applications (Application Serial Nos. 87048887 and 87048941) and these proceedings and am familiar with the facts and circumstances herein. I submit this declaration to swear to certain facts that are relevant to the determination of Applicant's Motion to Amend the Standard Protective Order, as well as to place before the Trademark Trial and Appeal Board ("Board") certain exhibits.

2. I have 15 years of litigation experience. Prior to joining Gilead Capital in May 2016, I was a litigation partner at the law firm of Kasowitz, Benson, Torres & Friedman LLP ("KBTF") and had previously practiced at Simpson Thacher & Bartlett LLP and Cohen, Milstein, Hausfeld & Toll PLLC. I also clerked for the Honorable Shira A. Scheindlin—who is known as the "e-discovery judge"—in the United States District Court for the Southern District of New York and co-wrote a law review article with her regarding electronic discovery sanctions. *See* Kanchana Wangkeo & Hon. Shira A. Scheindlin, *Electronic Discovery Sanctions in the Twenty-First Century*, 11 MICH. TELECOMM. TECH. L. REV. 71 (2004).

3. Accordingly, I have extensive experience in all facets of discovery. As relevant to this motion, my discovery experience includes managing document productions and reviews involving several terabytes of data and teams of more than 100 attorneys; securely handling documents containing highly confidential information (*e.g.*, trade secrets) as well as highly sensitive non-public personal information (*e.g.*, social security numbers, bank account numbers); and compliance with protective orders. I have worked closely with external e-discovery vendors, litigation support staff, and copy services to ensure that documents are processed and maintained properly and in accordance with any court orders. This includes overseeing at least twelve security audits of our vendors, consultants, and expert witnesses. The security audits entailed onsite visits, reviews of physical security and cybersecurity measures, and interviews of information technology staff. In all my years of practice, I have never been accused of—let alone sanctioned for—violation of a protective order.

4. Gilead Capital has retained a professional e-discovery services firm to assist with document discovery. Given that its business depends on the security of its services, the e-discovery vendor is also willing and able to comply with any applicable protective order.

5. Among other measures, documents produced in these proceedings will be maintained on secure servers that are separate from the servers that Gilead Capital uses for its business. Access to Opposer's documents will be restricted to prevent unauthorized access by third parties or by business persons within Gilead Capital. In my capacity as counsel in these proceedings, I would be the only person within Gilead Capital to have access to produced documents. I am an officer of the court and would not knowingly or intentionally disclose or use any information in violation of a protective order.

6. It is my understanding that in determining whether to amend the Standard Protective Order to remove the restriction with respect to Confidential – For Attorneys' Eyes Only (trade secret/commercially sensitive) information, the Board considers whether in-house counsel is involved in the competitive decision-making of the employer-litigant.

7. I am not involved in the competitive decision-making of Gilead Capital. As explained more fully below, Gilead Capital does not compete with Opposer, and my primary responsibilities are legal or compliance in nature while my operational responsibilities are also compliance-related or largely administrative.

8. Opposer is a pharmaceutical company. *See* Exhibit 4 at 3.

9. In contrast, Gilead Capital is an investment adviser, registered with the Securities and Exchange Commission ("SEC") (SEC File No. 801-107184), as a large advisory firm with regulatory assets under management of more than $100 million. *See* Exhibit 1.

10. Gilead Capital provides discretionary investment advice and management services to certain institutional clients pursuant to investment management agreements. Investment in separately managed accounts or private funds managed by Gilead Capital is generally only available to institutional investors and certain high net worth individuals that are "accredited

investors," "qualified clients," and "qualified purchasers," or non-"U.S. persons" within the meaning of the Securities Act of 1933 ("Securities Act"), the Investment Advisers Act of 1940 ("Advisers Act"), and the Investment Company Act of 1940 ("Investment Company Act"). *See* Exhibit 2, Items 4 & 7.

11. Gilead Capital does not provide services to general consumers or retail investors who do not meet the criteria for accredited investors, qualified clients, or qualified purchasers. The Firm does not engage in general advertising, but rather, relies on its partners' existing personal and professional networks for introductions to potential investors.

12. Gilead Capital employs an investment strategy of "Leadership Investing," which combines the principles of long-term value investing with responsible active ownership. The Firm takes meaningful stakes in a concentrated group of companies that it believes has underachieved their business and valuation potential and works productively with management teams, boards of directors, and other stakeholders over long-term holding periods to elevate corporate achievement and valuation by enhancing governance, strengthening management, and improving strategy and execution. *See* Exhibit 2, Item 8.

13. The Firm believes that its constructive investment approach is distinguishable from traditional activist investing and owns U.S. Registration No. 5127612 for "Leadership Investing" in connection with "[h]edge fund investment services; [i]nvestment advisory services; [i]nvestment management; [f]inancial services, namely, operation and management of hedge funds, commodity pools and other collective investment vehicles, and trading for others of securities, options, futures, derivatives, debt instruments and commodities." *See* Exhibit 3.

14. In selecting investments, Gilead Capital focuses on companies with small to mid-market capitalizations and invests across a broad spectrum of industries in developed markets,

including but not limited to North America, developed Europe, and Australia. The Firm invests primarily in equity and equity-linked securities of an issues, and may also invest in corporate debt securities and derivatives. In addition, the Firm may utilize financial instruments such as futures, forward contracts, stock index futures and options, and swaps, caps, and floors both for investment purposes and to seek to hedge against changes in currency exchange rates, market interest rates, and equity prices. *See* Exhibit 2, Item 8.

15. In short, Gilead Capital is in the business of investing. The investment process and decision-making includes researching companies, forming opinions as to value and opportunities, making decisions to trade or invest (*e.g.*, whether to buy, sell, or hold; the timing, quantity, and price of such purchases or sales; and the duration of positions), and negotiation and execution of trades.

16. Currently, five people work at Gilead Capital. Four are investment professionals (the Chief Investment Officer, the Director of Research, and two analysts) who are responsible for investment decisions.

17. I do not participate in making investment decisions. However, as CLO/CCO, I perform a legal and compliance function to ensure that our investment process and decisions comply with the law. I can prohibit or approve trades for legal or compliance reasons, but I do not otherwise provide investment input.

18. Registered investment advisers, such as Gilead Capital, are required to adopt and implement policies and procedures reasonably designed to prevent violations of the Advisers Act and to designate a CCO to administer such policies and procedures. 17 C.F.R. § 275.206(4)-7.

19. I administer the policies and procedures set forth in Gilead Capital's Compliance Manual and Code of Ethics ("Compliance Manual"). The Compliance Manual covers, among

other things, portfolio management processes, disclosures to investors, proprietary trading, prohibitions against insider trading, personal securities transactions, conflicts of interest, safeguarding of client assets, creation and maintenance of required records, privacy protections, and business continuity and disaster recovery plans. Thus, for example, I maintain a "restricted list" of securities in which neither the Firm nor its employees may trade, and I pre-approve personal securities trades of employees to prevent insider trading or front running. I maintain the books and records required of investment advisers, such as documentation of proxy vote decisions, trade confirmations, and accounting records. I review disclosure documents. And, I oversee trading practices regulated under the Advisers Act (*e.g.*, best execution; allocation of aggregated trades, fees, and expenses among clients).

20. I provide legal advice on the topics above, as well as on other matters as they arise. I am also generally responsible for regulatory compliance, which encompasses filing required reports (*e.g.*, Form ADV) and other disclosures related to our trading (*e.g.,* Schedule 13-D or Schedule 13-G), interfacing with regulators, and monitoring applicable legal developments.

21. As COO/CCO, I am responsible for certain operational matters that are part of the Compliance Manual—to wit, maintenance of books and records, retention of electronic communications, administering anti-money laundering policies, and implementing disaster recovery and business continuity plans.

22. My other operational roles are largely administrative. I oversee back office and middle office functions, which includes the logistics of processing trades, such as providing account numbers and settlement instructions to the custodian or executing brokers. I process payroll, invoices, and reimbursements, and I administer the firm's 401(k) plan and other benefits.

Procedural History

23. On November 20, 2017, the parties held their discovery conference, in which they discussed the Board's Standard Protective Order ("Protective Order"), among other issues. I proposed amending the Protective Order to provide for the clawback of privileged documents and to omit the provisions relating to "Confidential – Attorneys' Eyes Only" ("AEO") documents. With respect to the latter proposal, I explained that Gilead Capital is being represented in these proceedings by me and does not intend to retain outside counsel. I also described the methods by which I could restrict access to Opposer's documents in order to prevent inadvertent disclosure to third parties, as well as to other persons at Gilead Capital who do not have a need to know. Opposer's counsel, Ms. Greenwald-Swire, expressed generalized concerns about me having access to Opposer's documents and a preference for maintaining the standard Protective Order. Ms. Greenwald-Swire proposed that Gilead Capital should hire outside counsel to receive AEO documents. I responded that the proposal was impractical and burdensome because I am handling the main defense of the case and restricting access to certain documents would prejudice my ability to defend Gilead Capital. We agreed to revisit the issue after the Thanksgiving holiday.

24. On December 12, 2017, the parties held another teleconference, in which I described my roles and responsibilities and requested that Opposer reconsider its position in light of the additional information. Nineteen days later, Ms. Greenwald-Swire finally confirmed that Opposer would not. *See* Exhibit 8.

Exhibits

25. Annexed hereto as **Exhibit 1** is a true and correct copy of Gilead Capital's Form ADV Part 1A.

26. Annexed hereto as **Exhibit 2** is a true and correct copy of Gilead Capital's Form ADV Part 2A.

27. Annexed hereto as **Exhibit 3** is a true and correct copy of U.S. Registration No. 5,127,612 for the Leadership Investing mark.

28. Annexed hereto as **Exhibit 4** are true and correct copies of excerpts from Opposer's Form 10-K, for the fiscal year ended December 31, 2016.

29. Annexed hereto as **Exhibit 5** are true and correct copies of screenshots from Fish & Richardson's website, which were downloaded on December 30, 2017.

30. Annexed hereto as **Exhibit 6** are true and correct copies of screenshots from SanofiGenzyme's website (https://sanofigenzyme.com/Company/Areas-of-Focus.aspx), which were downloaded on December 30, 2017.

31. Annexed hereto as **Exhibit 7** is a true and correct copy of an article from the Motley Fool website, entitled "Should Gilead Sciences Be Worried About Allergan? (https://www.fool.com/investing/2017/04/23/should-gilead-sciences-be-worried-about-allergan), which was downloaded on December 30, 2017.

32. Annexed hereto as **Exhibit 8** is a true and correct copy of the email chain between me and Ms. Greenwald-Swire regarding the Protective Order.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
January 2, 2018

Respectfully submitted,

Kanchana Wangkeo Leung, Esq.

EXHIBIT 1

FORM ADV

UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION AND REPORT BY EXEMPT REPORTING ADVISERS

Primary Business Name: GILEAD CAPITAL LP	**CRD Number: 282023**
Annual Amendment - All Sections	**Rev. 10/2012**
2/2/2017 9:33:06 AM	

WARNING: Complete this form truthfully. False statements or omissions may result in denial of your application, revocation of your registration, or criminal prosecution. You must keep this form updated by filing periodic amendments. See Form ADV General Instruction 4.

Item 1 Identifying Information

Responses to this Item tell us who you are, where you are doing business, and how we can contact you.

A. Your full legal name (if you are a sole proprietor, your last, first, and middle names):
GILEAD CAPITAL LP

B. Name under which you primarily conduct your advisory business, if different from Item 1.A.:
GILEAD CAPITAL LP

List on Section 1.B. of Schedule D any additional names under which you conduct your advisory business.

C. If this filing is reporting a change in your legal name (Item 1.A.) or primary business name (Item 1.B.), enter the new name and specify whether the name change is of
☐ your legal name or ☐ your primary business name:

D. (1) If you are registered with the SEC as an investment adviser, your SEC file number: **801-107184**
(2) If you report to the SEC as an *exempt reporting adviser*, your SEC file number:

E. If you have a number ("*CRD* Number") assigned by the *FINRA's CRD* system or by the IARD system, your *CRD* number: **282023**

If your firm does not have a CRD number, skip this Item 1.E. Do not provide the CRD number of one of your officers, employees, or affiliates.

F. *Principal Office and Place of Business*

(1) Address (do not use a P.O. Box):

Number and Street 1:		Number and Street 2:	
157 COLUMBUS AVE		SUITE 403	
City:	State:	Country:	ZIP+4/Postal Code:
NEW YORK CITY	New York	United States	10023

If this address is a private residence, check this box: ☐

List on Section 1.F. of Schedule D any office, other than your principal office and place of business, at which you conduct investment advisory business. If you are applying for registration, or are registered, with one or more state securities authorities, you must list all of your offices in the state or states to which you are applying for registration or with whom you are registered. If you are applying for SEC registration, if you are registered only with the SEC, or if you are reporting to the SEC as an exempt reporting adviser, list the largest five offices in terms of numbers of employees.

(2) Days of week that you normally conduct business at your *principal office and place of business:*
◉ Monday - Friday ○ Other:

Normal business hours at this location:
8:00 AM TO 5:00 PM

(3) Telephone number at this location:
646-693-6372

(4) Facsimile number at this location:

G. Mailing address, if different from your *principal office and place of business* address:

Number and Street 1:		Number and Street 2:	
City:	State:	Country:	ZIP+4/Postal Code:

If this address is a private residence, check this box: ☐

H. If you are a sole proprietor, state your full residence address, if different from your *principal office and place of business* address in Item 1.F.:

Number and Street 1:		Number and Street 2:	
City:	State:	Country:	ZIP+4/Postal Code:

	Yes	No
I. Do you have one or more websites?	○	◉

If "yes," list all website addresses on Section 1.I. of Schedule D. If a website address serves as a portal through which to access other information you have published on the web, you may list the portal without listing addresses for all of the other information. Some advisers may need to list more than one portal address. Do not provide individual electronic mail (e-mail) addresses in response to this Item.

J. Provide the name and contact information of your Chief Compliance Officer: If you are an *exempt reporting adviser*, you must provide the contact information for your Chief Compliance Officer, if you have one. If not, you must complete Item 1.K. below.

Name:		Other titles, if any:	
Telephone number:		Facsimile number:	
Number and Street 1:		Number and Street 2:	
City:	State:	Country:	ZIP+4/Postal Code:

Electronic mail (e-mail) address, if Chief Compliance Officer has one:

K. Additional Regulatory Contact Person: If a person other than the Chief Compliance Officer is authorized to receive information and respond to questions about this Form ADV, you may provide that information here.

Name:		Titles:	
Telephone number:		Facsimile number:	
Number and Street 1:		Number and Street 2:	
City:	State:	Country:	ZIP+4/Postal Code:

Electronic mail (e-mail) address, if contact person has one:

	Yes	No
L. Do you maintain some or all of the books and records you are required to keep under Section 204 of the Advisers Act, or similar state law, somewhere other than your *principal office and place of business*?	○	◉

If "yes," complete Section 1.L. of Schedule D.

	Yes	No
M. Are you registered with a *foreign financial regulatory authority*?	○	◉

Answer "no" if you are not registered with a foreign financial regulatory authority, even if you have an affiliate that is registered with a foreign financial regulatory authority. If "yes," complete Section 1.M. of Schedule D.

	Yes	No
N. Are you a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934?	○	◉

If "yes," provide your CIK number (Central Index Key number that the SEC assigns to each public reporting company):

	Yes	No
O. Did you have $1 billion or more in assets on the last day of your most recent fiscal year?	○	◉

P. Provide your *Legal Entity Identifier* if you have one:

A *legal entity identifier* is a unique number that companies use to identify each other in the financial marketplace. In the first half of 2011, the *legal entity identifier* standard was still in development. You may not have a *legal entity identifier*.

SECTION 1.B. Other Business Names

List your other business names and the jurisdictions in which you use them. You must complete a separate Schedule D Section 1.B. for each business name.

Name: GILEAD CAPITAL

Jurisdictions

☐ AL	☐ ID	☐ MO	☐ PA
☐ AK	☐ IL	☐ MT	☐ PR
☐ AZ	☐ IN	☐ NE	☐ RI
☐ AR	☐ IA	☐ NV	☐ SC
☐ CA	☐ KS	☐ NH	☐ SD
☐ CO	☐ KY	☐ NJ	☐ TN
☐ CT	☐ LA	☐ NM	☐ TX
☐ DE	☐ ME	☑ NY	☐ UT
☐ DC	☐ MD	☐ NC	☐ VT
☐ FL	☐ MA	☐ ND	☐ VI

☐ GA	☐ MI	☐ OH	☐ VA
☐ GU	☐ MN	☐ OK	☐ WA
☐ HI	☐ MS	☐ OR	☐ WV
			☐ WI
			☐ Other:

SECTION 1.F. Other Offices

No Information Filed

SECTION 1.I. Website Addresses

No Information Filed

SECTION 1.L. Location of Books and Records

No Information Filed

SECTION 1.M. Registration with Foreign Financial Regulatory Authorities

No Information Filed

Item 2 SEC Registration/ Reporting

Responses to this Item help us (and you) determine whether you are eligible to register with the SEC. Complete this Item 2.A. only if you are applying for SEC registration or submitting an *annual updating amendment* to your SEC registration.

A. To register (or remain registered) with the SEC, you must check **at least one** of the Items 2.A.(1) through 2.A.(12), below. If you are submitting an *annual updating amendment* to your SEC registration and you are no longer eligible to register with the SEC, check Item 2.A.(13). Part 1A Instruction 2 provides information to help you determine whether you may affirmatively respond to each of these items.

You (the adviser):

☑ (1) are a **large advisory firm** that either:

(a) has regulatory assets under management of $100 million (in U.S. dollars) or more, or

(b) has regulatory assets under management of $90 million (in U.S. dollars) or more at the time of filing its most recent *annual updating amendment* and is registered with the SEC;

☐ (2) are a **mid-sized advisory firm** that has regulatory assets under management of $25 million (in U.S. dollars) or more but less than $100 million (in U.S. dollars) and you are either:

(a) not required to be registered as an adviser with the *state securities authority* of the state where you maintain your *principal office and place of business*, or

(b) not subject to examination by the *state securities authority* of the state where you maintain your *principal office and place of business*;

*Click **HERE** for a list of states in which an investment adviser, if registered, would not be subject to examination by the state securities authority.*

☐ (3) have your *principal office and place of business* **in Wyoming** (which does not regulate advisers);

☐ (4) have your *principal office and place of business* **outside the United States**;

☐ (5) are **an investment adviser (or sub-adviser) to an investment company** registered under the Investment Company Act of 1940;

☐ (6) are **an investment adviser to a company which has elected to be a business development company** pursuant to section 54 of the Investment Company Act of 1940 and has not withdrawn the election, and you have at least $25 million of regulatory assets under management;

☐ (7) are a **pension consultant** with respect to assets of plans having an aggregate value of at least $200,000,000 that qualifies for the exemption in rule 203A-2(a);

☐ (8) are a **related adviser** under rule 203A-2(b) that *controls*, is *controlled* by, or is under common *control* with, an investment adviser that is registered with the SEC, and your *principal office and place of business* is the same as the registered adviser;

If you check this box, complete Section 2.A.(8) of Schedule D.

☐ (9) are a **newly formed adviser** relying on rule 203A-2(c) because you expect to be eligible for SEC registration within 120 days;

If you check this box, complete Section 2.A.(9) of Schedule D.

☐ (10) are a **multi-state adviser** that is required to register in 15 or more states and is relying on rule 203A-2(d);

If you check this box, complete Section 2.A.(10) of Schedule D.

☐ (11) are an **Internet adviser** relying on rule 203A-2(e);

☐ (12) have **received an SEC order** exempting you from the prohibition against registration with the SEC;

If you check this box, complete Section 2.A.(12) of Schedule D.

☐ (13) are **no longer eligible** to remain registered with the SEC.

State Securities Authority Notice Filings **and State Reporting by** ***Exempt Reporting Advisers***

C. Under state laws, SEC-registered advisers may be required to provide to *state securities authorities* a copy of the Form ADV and any amendments they file with the SEC. These are called *notice filings*. In addition, *exempt reporting advisers* may be required to provide *state securities authorities* with a copy of reports and any amendments they file with the SEC. If this is an initial application or report, check the box(es) next to the state(s) that you would like to receive notice of this and all subsequent filings or reports you submit to the SEC. If this is an amendment to direct your *notice filings* or reports to additional state(s), check the box(es) next to the state(s) that you would like to receive notice of this and all subsequent filings or reports you submit to the SEC. If this is an amendment to your registration to stop your *notice filings* or reports from going to state(s) that currently receive them, uncheck the box(es) next to those state(s).

Jurisdictions

☐ AL	☐ ID	☐ MO	☐ PA
☐ AK	☐ IL	☐ MT	☐ PR
☐ AZ	☐ IN	☐ NE	☐ RI
☐ AR	☐ IA	☐ NV	☐ SC
☐ CA	☐ KS	☐ NH	☐ SD
☐ CO	☐ KY	☐ NJ	☐ TN
☐ CT	☐ LA	☐ NM	☐ TX
☐ DE	☐ ME	☑ NY	☐ UT
☐ DC	☐ MD	☐ NC	☐ VT
☐ FL	☐ MA	☐ ND	☐ VI
☐ GA	☐ MI	☐ OH	☐ VA
☐ GU	☐ MN	☐ OK	☐ WA
☐ HI	☐ MS	☐ OR	☐ WV
			☐ WI

If you are amending your registration to stop your notice filings or reports from going to a state that currently receives them and you do not want to pay that state's notice filing or report filing fee for the coming year, your amendment must be filed before the end of the year (December 31).

SECTION 2.A.(8) Related Adviser

If you are relying on the exemption in rule 203A-2(b) from the prohibition on registration because you *control*, are *controlled* by, or are under common *control* with an investment adviser that is registered with the SEC and your *principal office and place of business* is the same as that of the registered adviser, provide the following information:

Name of Registered Investment Adviser

CRD Number of Registered Investment Adviser

SEC Number of Registered Investment Adviser
801 -

SECTION 2.A.(9) Newly Formed Adviser

If you are relying on rule 203A-2(c), the newly formed adviser exemption from the prohibition on registration, you are required to make certain representations about your eligibility for SEC registration. By checking the appropriate boxes, you will be deemed to have made the required representations. You must make both of these representations:

☐ I am not registered or required to be registered with the SEC or a *state securities authority* and I have a reasonable expectation that I will be eligible to register with the SEC within 120 days after the date my registration with the SEC becomes effective.

☐ I undertake to withdraw from SEC registration if, on the 120th day after my registration with the SEC becomes effective, I would be prohibited by Section 203A(a) of the Advisers Act from registering with the SEC.

SECTION 2.A.(10) Multi-State Adviser

If you are relying on rule 203A-2(d), the multi-state adviser exemption from the prohibition on registration, you are required to make certain representations

about your eligibility for SEC registration. By checking the appropriate boxes, you will be deemed to have made the required representations.

If you are applying for registration as an investment adviser with the SEC, you must make both of these representations:

☐ I have reviewed the applicable state and federal laws and have concluded that I am required by the laws of 15 or more states to register as an investment adviser with the *state securities authorities* in those states.

☐ I undertake to withdraw from SEC registration if I file an amendment to this registration indicating that I would be required by the laws of fewer than 15 states to register as an investment adviser with the *state securities authorities* of those states.

If you are submitting your *annual updating amendment*, you must make this representation:

☐ Within 90 days prior to the date of filing this amendment, I have reviewed the applicable state and federal laws and have concluded that I am required by the laws of at least 15 states to register as an investment adviser with the *state securities authorities* in those states.

SECTION 2.A.(12) SEC Exemptive *Order*

If you are relying upon an SEC *order* exempting you from the prohibition on registration, provide the following information:

Application Number:

803-

Date of *order*:

Item 3 Form of Organization

A. How are you organized?

- ○ Corporation
- ○ Sole Proprietorship
- ○ Limited Liability Partnership (LLP)
- ○ Partnership
- ○ Limited Liability Company (LLC)
- ◉ Limited Partnership (LP)
- ○ Other (specify):

If you are changing your response to this Item, see Part 1A Instruction 4.

B. In what month does your fiscal year end each year?
DECEMBER

C. Under the laws of what state or country are you organized?

State	Country
Delaware	United States

If you are a partnership, provide the name of the state or country under whose laws your partnership was formed. If you are a sole proprietor, provide the name of the state or country where you reside.

If you are changing your response to this Item, see Part 1A Instruction 4.

Item 4 Successions

	Yes	No
A. Are you, at the time of this filing, succeeding to the business of a registered investment adviser?	○	◉

If "yes", complete Item 4.B. and Section 4 of Schedule D.

B. Date of Succession: (MM/DD/YYYY)

If you have already reported this succession on a previous Form ADV filing, do not report the succession again. Instead, check "No." See Part 1A Instruction 4.

SECTION 4 Successions

No Information Filed

Item 5 Information About Your Advisory Business - Employees, Clients, and Compensation

Responses to this Item help us understand your business, assist us in preparing for on-site examinations, and provide us with data we use when making regulatory policy. Part 1A Instruction 5.a. provides additional guidance to newly formed advisers for completing this Item 5.

Employees

If you are organized as a sole proprietorship, include yourself as an employee in your responses to Item 5.A. and Items 5.B.(1), (2), (3), (4), and (5). If an employee performs more than one function, you should count that employee in each of your responses to Items 5.B.(1), (2), (3), (4), and (5).

A. Approximately how many *employees* do you have? Include full- and part-time *employees* but do not include any clerical workers.

4

B. (1) Approximately how many of the *employees* reported in 5.A. perform investment advisory functions (including research)?

3

(2) Approximately how many of the *employees* reported in 5.A. are registered representatives of a broker-dealer?

0

(3) Approximately how many of the *employees* reported in 5.A. are registered with one or more *state securities authorities* as *investment adviser representatives*?

0

(4) Approximately how many of the *employees* reported in 5.A. are registered with one or more *state securities authorities* as *investment adviser representatives* for an investment adviser other than you?

0

(5) Approximately how many of the *employees* reported in 5.A. are licensed agents of an insurance company or agency?

0

(6) Approximately how many firms or other *persons* solicit advisory *clients* on your behalf?

0

In your response to Item 5.B.(6), do not count any of your employees and count a firm only once – do not count each of the firm's employees that solicit on your behalf.

Clients

In your responses to Items 5.C. and 5.D. do not include as "clients" the investors in a private fund you advise, unless you have a separate advisory relationship with those investors.

C. (1) To approximately how many *clients* did you provide investment advisory services during your most recently completed fiscal year?

- ○ 0
- ◉ 1-10
- ○ 11-25
- ○ 26-100
- ○ More than 100
  If more than 100, how many?
  (round to the nearest 100)

(2) Approximately what percentage of your *clients* are non-*United States persons*?

0%

D. *For purposes of this Item 5.D., the category "individuals" includes trusts, estates, and 401(k) plans and IRAs of individuals and their family members, but does not include businesses organized as sole proprietorships. The category "business development companies" consists of companies that have made an election pursuant to section 54 of the Investment Company Act of 1940. Unless you provide advisory services pursuant to an investment advisory contract to an investment company registered under the Investment Company Act of 1940, check "None" in response to Item 5.D.(1)(d) and do not check any of the boxes in response to Item 5.D.(2)(d).*

(1) What types of *clients* do you have? Indicate the approximate percentage that each type of *client* comprises of your total number of *clients*. If a *client* fits into more than one category, check all that apply.

	None	Up to 10%	11-25%	26-50%	51-75%	76-99%	100%
(a) Individuals (other than *high net worth individuals*)	◉	○	○	○	○	○	○
(b) *High net worth individuals*	◉	○	○	○	○	○	○
(c) Banking or thrift institutions	◉	○	○	○	○	○	○
(d) Investment companies	◉	○	○	○	○	○	○
(e) Business development companies	◉	○	○	○	○	○	○
(f) Pooled investment vehicles (other than investment companies)	◉	○	○	○	○	○	○
(g) Pension and profit sharing plans (but not the plan participants)	◉	○	○	○	○	○	○
(h) Charitable organizations	○	○	○	○	◉	○	○
(i) Corporations or other businesses not listed above	○	○	○	◉	○	○	○

(j) State or municipal *government entities*	◉	○	○	○	○	○	○
(k) Other investment advisers	◉	○	○	○	○	○	○
(l) Insurance companies	◉	○	○	○	○	○	○
(m) Other:	◉	○	○	○	○	○	○

(2) Indicate the approximate amount of your regulatory assets under management (reported in Item 5.F. below) attributable to each of the following type of *client*. If a *client* fits into more than one category, check all that apply.

	None	Up to 25%	Up to 50%	Up to 75%	>75%
(a) Individuals (other than *high net worth individuals*)	◉	○	○	○	○
(b) *High net worth individuals*	◉	○	○	○	○
(c) Banking or thrift institutions	◉	○	○	○	○
(d) Investment companies	◉	○	○	○	○
(e) Business development companies	◉	○	○	○	○
(f) Pooled investment vehicles (other than investment companies)	◉	○	○	○	○
(g) Pension and profit sharing plans (but not the plan participants)	◉	○	○	○	○
(h) Charitable organizations	○	○	○	○	◉
(i) Corporations or other businesses not listed above	○	◉	○	○	○
(j) State or municipal *government entities*	◉	○	○	○	○
(k) Other investment advisers	◉	○	○	○	○
(l) Insurance companies	◉	○	○	○	○
(m) Other:	◉	○	○	○	○

Compensation Arrangements

E. You are compensated for your investment advisory services by (check all that apply):

- ☑ (1) A percentage of assets under your management
- ☐ (2) Hourly charges
- ☐ (3) Subscription fees (for a newsletter or periodical)
- ☐ (4) Fixed fees (other than subscription fees)
- ☐ (5) Commissions
- ☑ (6) *Performance-based fees*
- ☐ (7) Other (specify):

Item 5 Information About Your Advisory Business - Regulatory Assets Under Management

Regulatory Assets Under Management

	Yes	No
F. (1) Do you provide continuous and regular supervisory or management services to securities portfolios?	◉	○

(2) If yes, what is the amount of your regulatory assets under management and total number of accounts?

	U.S. Dollar Amount	Total Number of Accounts
Discretionary:	(a) $ 101,380,160	(d) 3
Non-Discretionary:	(b) $ 0	(e) 0
Total:	(c) $ 101,380,160	(f) 3

Part 1A Instruction 5.b. explains how to calculate your regulatory assets under management. You must follow these instructions carefully when completing this Item.

Item 5 Information About Your Advisory Business - Advisory Activities

Advisory Activities

G. What type(s) of advisory services do you provide? Check all that apply.

- ☐ (1) Financial planning services
- ☐ (2) Portfolio management for individuals and/or small businesses
- ☐ (3) Portfolio management for investment companies (as well as "business development companies" that have made an election pursuant to section 54 of the Investment Company Act of 1940)
- ☐ (4) Portfolio management for pooled investment vehicles (other than investment companies)
- ☑ (5) Portfolio management for businesses (other than small businesses) or institutional *clients* (other than registered investment companies and other pooled investment vehicles)
- ☐ (6) Pension consulting services
- ☐ (7) Selection of other advisers (including *private fund* managers)
- ☐ (8) Publication of periodicals or newsletters
- ☐ (9) Security ratings or pricing services
- ☐ (10) Market timing services

☐ (11) Educational seminars/workshops
☐ (12) Other(specify):

Do not check Item 5.G.(3) unless you provide advisory services pursuant to an investment advisory contract to an investment company registered under the Investment Company Act of 1940, including as a subadviser. If you check Item 5.G.(3), report the 811 or 814 number of the investment company or investment companies to which you provide advice in Section 5.G.(3) of Schedule D.

H. If you provide financial planning services, to how many *clients* did you provide these services during your last fiscal year?

○ 0
○ 1 - 10
○ 11 - 25
○ 26 - 50
○ 51 - 100
○ 101 - 250
○ 251 - 500
○ More than 500
If more than 500, how many?
(round to the nearest 500)

In your responses to this Item 5.H., do not include as "clients" the investors in a private fund you advise, unless you have a separate advisory relationship with those investors.

I. If you participate in a *wrap fee program*, do you (check all that apply):

☐ (1) *sponsor* the *wrap fee program*?
☐ (2) act as a portfolio manager for the *wrap fee program*?

If you are a portfolio manager for a wrap fee program, list the names of the programs and their sponsors in Section 5.I.(2) of Schedule D.

If your involvement in a wrap fee program is limited to recommending wrap fee programs to your clients, or you advise a mutual fund that is offered through a wrap fee program, do not check either Item 5.I.(1) or 5.I.(2).

	Yes	No
J. In response to Item 4.B. of Part 2A of Form ADV, do you indicate that you provide investment advice only with respect to limited types of investments?	○	◉

SECTION 5.G.(3) Advisers to Registered Investment Companies and Business Development Companies

No Information Filed

SECTION 5.I.(2) *Wrap Fee Programs*

No Information Filed

Item 6 Other Business Activities

In this Item, we request information about your firm's other business activities.

A. You are actively engaged in business as a (check all that apply):

☐ (1) broker-dealer (registered or unregistered)
☐ (2) registered representative of a broker-dealer
☑ (3) commodity pool operator or commodity trading advisor (whether registered or exempt from registration)
☐ (4) futures commission merchant
☐ (5) real estate broker, dealer, or agent
☐ (6) insurance broker or agent
☐ (7) bank (including a separately identifiable department or division of a bank)
☐ (8) trust company
☐ (9) registered municipal advisor
☐ (10) registered security-based swap dealer
☐ (11) major security-based swap participant
☐ (12) accountant or accounting firm
☐ (13) lawyer or law firm
☐ (14) other financial product salesperson (specify):

If you engage in other business using a name that is different from the names reported in Items 1.A. or 1.B, complete Section 6.A. of Schedule D.

Yes No

			Yes	No
B.	(1)	Are you actively engaged in any other business not listed in Item 6.A. (other than giving investment advice)?	○	◉
	(2)	If yes, is this other business your primary business?	○	○

If "yes," describe this other business on Section 6.B.(2) of Schedule D, and if you engage in this business under a different name, provide that name.

			Yes	No
	(3)	Do you sell products or provide services other than investment advice to your advisory *clients*?	○	◉

If "yes," describe this other business on Section 6.B.(3) of Schedule D, and if you engage in this business under a different name, provide that name.

SECTION 6.A. Names of Your Other Businesses

No Information Filed

SECTION 6.B.(2) Description of Primary Business

Describe your primary business (not your investment advisory business):

If you engage in that business under a different name, provide that name:

SECTION 6.B.(3) Description of Other Products and Services

Describe other products or services you sell to your *client*, You may omit products and services that you listed in Section 6.B.(2) above.

If you engage in that business under a different name, provide that name.

Item 7 Financial Industry Affiliations

In this Item, we request information about your financial industry affiliations and activities. This information identifies areas in which conflicts of interest may occur between you and your *clients*.

A. This part of Item 7 requires you to provide information about you and your *related persons*, including foreign affiliates. Your *related persons* are all of your *advisory affiliates* and any *person* that is under common *control* with you.

You have a *related person* that is a (check all that apply):

- ☐ (1) broker-dealer, municipal securities dealer, or government securities broker or dealer (registered or unregistered)
- ☐ (2) other investment adviser (including financial planners)
- ☐ (3) registered municipal advisor
- ☐ (4) registered security-based swap dealer
- ☐ (5) major security-based swap participant
- ☐ (6) commodity pool operator or commodity trading advisor (whether registered or exempt from registration)
- ☐ (7) futures commission merchant
- ☐ (8) banking or thrift institution
- ☐ (9) trust company
- ☐ (10) accountant or accounting firm
- ☐ (11) lawyer or law firm
- ☐ (12) insurance company or agency
- ☐ (13) pension consultant
- ☐ (14) real estate broker or dealer
- ☐ (15) sponsor or syndicator of limited partnerships (or equivalent), excluding pooled investment vehicles
- ☐ (16) sponsor, general partner, managing member (or equivalent) of pooled investment vehicles

For each related person, including foreign affiliates that may not be registered or required to be registered in the United States, complete Section 7.A. of Schedule D.

You do not need to complete Section 7.A. of Schedule D for any related person if: (1) you have no business dealings with the related person in connection with advisory services you provide to your clients; (2) you do not conduct shared operations with the related person; (3) you do not refer clients or business to the related person, and the related person does not refer prospective clients or business to you; (4) you do not share supervised persons or premises with the related person; and (5) you have no reason to believe that your relationship with the related person otherwise creates a conflict of interest with your clients.

You must complete Section 7.A. of Schedule D for each related person acting as qualified custodian in connection with advisory services you provide to your clients (other than any mutual fund transfer agent pursuant to rule 206(4)-2(b)(1)), regardless of whether you have determined the related person to be operationally independent under rule 206(4)-2 of the Advisers Act.

SECTION 7.A. Financial Industry Affiliations

No Information Filed

Item 7 *Private Fund* Reporting

	Yes	No
B. Are you an adviser to any *private fund*?	○	◉

If "yes," then for each private fund that you advise, you must complete a Section 7.B.(1) of Schedule D, except in certain circumstances described in the next sentence and in Instruction 6 of the Instructions to Part 1A. If another adviser reports this information with respect to any such private fund in Section 7.B.(1) of Schedule D of its Form ADV (e.g., if you are a subadviser), do not complete Section 7.B.(1) of Schedule D with respect to that private fund. You must, instead, complete Section 7.B.(2) of Schedule D.

In either case, if you seek to preserve the anonymity of a private fund client by maintaining its identity in your books and records in numerical or alphabetical code, or similar designation, pursuant to rule 204-2(d), you may identify the private fund in Section 7.B.(1) or 7.B.(2) of Schedule D using the same code or designation in place of the fund's name.

SECTION 7.B.(1) *Private Fund* Reporting

No Information Filed

SECTION 7.B.(2) *Private Fund* Reporting

No Information Filed

Item 8 Participation or Interest in *Client* Transactions

In this Item, we request information about your participation and interest in your *clients*' transactions. This information identifies additional areas in which conflicts of interest may occur between you and your *clients*.

Like Item 7, Item 8 requires you to provide information about you and your *related persons*, including foreign affiliates.

Proprietary Interest in *Client* Transactions

		Yes	No
A.	Do you or any *related person*:		
(1)	buy securities for yourself from advisory *clients*, or sell securities you own to advisory *clients* (principal transactions)?	○	◉
(2)	buy or sell for yourself securities (other than shares of mutual funds) that you also recommend to advisory *clients*?	◉	○
(3)	recommend securities (or other investment products) to advisory *clients* in which you or any *related person* has some other proprietary (ownership) interest (other than those mentioned in Items 8.A.(1) or (2))?	○	◉

Sales Interest in *Client* Transactions

		Yes	No
B.	Do you or any *related person*:		
(1)	as a broker-dealer or registered representative of a broker-dealer, execute securities trades for brokerage customers in which advisory *client* securities are sold to or bought from the brokerage customer (agency cross transactions)?	○	◉
(2)	recommend purchase of securities to advisory *clients* for which you or any *related person* serves as underwriter, general or managing partner, or purchaser representative?	○	◉
(3)	recommend purchase or sale of securities to advisory *clients* for which you or any *related person* has any other sales interest (other than the receipt of sales commissions as a broker or registered representative of a broker-dealer)?	○	◉

Investment or Brokerage Discretion

		Yes	No
C.	Do you or any *related person* have *discretionary authority* to determine the:		
(1)	securities to be bought or sold for a *client's* account?	◉	○
(2)	amount of securities to be bought or sold for a *client's* account?	◉	○
(3)	broker or dealer to be used for a purchase or sale of securities for a *client's* account?	◉	○
(4)	commission rates to be paid to a broker or dealer for a *client's* securities transactions?	◉	○
D.	If you answer "yes" to C.(3) above, are any of the brokers or dealers *related persons*?	○	◉
E.	Do you or any *related person* recommend brokers or dealers to *clients*?	○	◉
F.	If you answer "yes" to E above, are any of the brokers or dealers *related persons*?	○	○
G. (1)	Do you or any *related person* receive research or other products or services other than execution from a broker-dealer or a third party ("soft dollar benefits") in connection with *client* securities transactions?	○	◉
(2)	If "yes" to G.(1) above, are all the "soft dollar benefits" you or any *related persons* receive eligible "research or brokerage services" under section 28(e) of the Securities Exchange Act of 1934?	○	○
H.	Do you or any *related person*, directly or indirectly, compensate any *person* for *client* referrals?	○	◉

I. Do you or any *related person*, directly or indirectly, receive compensation from any *person* for *client* referrals? ○ Yes ◉ No

In responding to Items 8.H and 8.I., consider all cash and non-cash compensation that you or a related person gave to (in answering Item 8.H) or received from (in answering Item 8.I) any person in exchange for client referrals, including any bonus that is based, at least in part, on the number or amount of client referrals.

Item 9 Custody

In this Item, we ask you whether you or a *related person* has *custody* of *client* (other than *clients* that are investment companies registered under the Investment Company Act of 1940) assets and about your custodial practices.

		Yes	No
A. (1)	Do you have *custody* of any advisory *clients'*:		
(a)	cash or bank accounts?	○	◉
(b)	securities?	○	◉

If you are registering or registered with the SEC, answer "No" to Item 9.A.(1)(a) and (b) if you have custody solely because (i) you deduct your advisory fees directly from your clients' accounts, or (ii) a related person has custody of client assets in connection with advisory services you provide to clients, but you have overcome the presumption that you are not operationally independent (pursuant to Advisers Act rule 206(4)-(2)(d)(5)) from the related person.

(2) If you checked "yes" to Item 9.A.(1)(a) or (b), what is the approximate amount of *client* funds and securities and total number of *clients* for which you have *custody*:

U.S. Dollar Amount	Total Number of *Clients*
(a) $	(b)

If you are registering or registered with the SEC and you have custody solely because you deduct your advisory fees directly from your clients' accounts, do not include the amount of those assets and the number of those clients in your response to Item 9.A.(2). If your related person has custody of client assets in connection with advisory services you provide to clients, do not include the amount of those assets and number of those clients in your response to 9.A.(2). Instead, include that information in your response to Item 9.B.(2).

		Yes	No
B. (1)	In connection with advisory services you provide to *clients*, do any of your *related persons* have *custody* of any of your advisory *clients'*:		
(a)	cash or bank accounts?	○	◉
(b)	securities?	○	◉

You are required to answer this item regardless of how you answered Item 9.A.(1)(a) or (b).

(2) If you checked "yes" to Item 9.B.(1)(a) or (b), what is the approximate amount of *client* funds and securities and total number of *clients* for which your *related persons* have *custody*:

U.S. Dollar Amount	Total Number of *Clients*
(a) $	(b)

C. If you or your *related persons* have *custody* of *client* funds or securities in connection with advisory services you provide to *clients*, check all the following that apply:

(1) A qualified custodian(s) sends account statements at least quarterly to the investors in the pooled investment vehicle(s) you manage. ☐

(2) An *independent public accountant* audits annually the pooled investment vehicle(s) that you manage and the audited financial statements are distributed to the investors in the pools. ☐

(3) An *independent public accountant* conducts an annual surprise examination of *client* funds and securities. ☐

(4) An *independent public accountant* prepares an internal control report with respect to custodial services when you or your *related persons* are qualified custodians for *client* funds and securities. ☐

If you checked Item 9.C.(2), C.(3) or C.(4), list in Section 9.C. of Schedule D the accountants that are engaged to perform the audit or examination or prepare an internal control report. (If you checked Item 9.C.(2), you do not have to list auditor information in Section 9.C. of Schedule D if you already provided this information with respect to the private funds you advise in Section 7.B.(1) of Schedule D).

		Yes	No
D.	Do you or your *related person(s)* act as qualified custodians for your *clients* in connection with advisory services you provide to *clients*?		
(1)	you act as a qualified custodian	○	◉
(2)	your *related person(s)* act as qualified custodian(s)	○	◉

If you checked "yes" to Item 9.D.(2), all related persons that act as qualified custodians (other than any mutual fund transfer agent pursuant to rule 206(4)-2(b)(1)) must be identified in Section 7.A. of Schedule D, regardless of whether you have determined the related person to be operationally independent under rule 206(4)-2 of the Advisers Act.

E. If you are filing your *annual updating amendment* and you were subject to a surprise examination by an *independent public accountant* during your last

fiscal year, provide the date (MM/YYYY) the examination commenced:

F. If you or your *related persons* have *custody* of *client* funds or securities, how many persons, including, but not limited to, you and your *related persons,* act as qualified custodians for your *clients* in connection with advisory services you provide to *clients?*

SECTION 9.C. *Independent Public Accountant*

No Information Filed

Item 10 Control Persons

In this Item, we ask you to identify every *person* that, directly or indirectly, *controls* you.

If you are submitting an initial application or report, you must complete Schedule A and Schedule B. Schedule A asks for information about your direct owners and executive officers. Schedule B asks for information about your indirect owners. If this is an amendment and you are updating information you reported on either Schedule A or Schedule B (or both) that you filed with your initial application or report, you must complete Schedule C.

	Yes	No
A. Does any *person* not named in Item 1.A. or Schedules A, B, or C, directly or indirectly, *control* your management or policies?	○	◉

If yes, complete Section 10.A. of Schedule D.

B. If any *person* named in Schedules A, B, or C or in Section 10.A. of Schedule D is a public reporting company under Sections 12 or 15(d) of the Securities Exchange Act of 1934, please complete Section 10.B. of Schedule D.

SECTION 10.A. *Control Persons*

No Information Filed

SECTION 10.B. Control Person Public Reporting Companies

No Information Filed

Item 11 Disclosure Information

In this Item, we ask for information about your disciplinary history and the disciplinary history of all your *advisory affiliates*. We use this information to determine whether to grant your application for registration, to decide whether to revoke your registration or to place limitations on your activities as an investment adviser, and to identify potential problem areas to focus on during our on-site examinations. One event may result in "yes" answers to more than one of the questions below.

Your *advisory affiliates* are: (1) all of your current *employees* (other than *employees* performing only clerical, administrative, support or similar functions); (2) all of your officers, partners, or directors (or any *person* performing similar functions); and (3) all *persons* directly or indirectly *controlling* you or *controlled* by you. If you are a "separately identifiable department or division" (SID) of a bank, see the Glossary of Terms to determine who your *advisory affiliates* are.

If you are registered or registering with the SEC or if you are an exempt reporting adviser, you may limit your disclosure of any event listed in Item 11 to ten years following the date of the event. If you are registered or registering with a state, you must respond to the questions as posed; you may, therefore, limit your disclosure to ten years following the date of an event only in responding to Items 11.A.(1), 11.A.(2), 11.B.(1), 11.B.(2), 11.D.(4), and 11.H.(1)(a). For purposes of calculating this ten-year period, the date of an event is the date the final order, judgment, or decree was entered, or the date any rights of appeal from preliminary orders, judgments, or decrees lapsed.

You must complete the appropriate Disclosure Reporting Page ("DRP") for "yes" answers to the questions in this Item 11.

	Yes	No
Do any of the events below involve you or any of your *supervised persons*?	○	◉

For "yes" answers to the following questions, complete a Criminal Action DRP:

A. In the past ten years, have you or any *advisory affiliate*:	Yes	No
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	○	◉
(2) been *charged* with any *felony*?	○	◉

If you are registered or registering with the SEC, or if you are reporting as an exempt reporting adviser, you may limit your response to Item 11.A.(2) to charges that are currently pending.

B. In the past ten years, have you or any *advisory affiliate*:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor* involving:	○	◉

investments or an *investment-related* business, or any fraud, false statements, or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?

(2) been *charged* with a *misdemeanor* listed in Item 11.B.(1)? ○ ◉

If you are registered or registering with the SEC, or if you are reporting as an exempt reporting adviser, you may limit your response to Item 11.B.(2) to charges that are currently pending.

For "yes" answers to the following questions, complete a Regulatory Action DRP:

		Yes	No
C.	Has the SEC or the Commodity Futures Trading Commission (CFTC) ever:		
	(1) *found* you or any *advisory affiliate* to have made a false statement or omission?	○	◉
	(2) *found* you or any *advisory affiliate* to have been *involved* in a violation of SEC or CFTC regulations or statutes?	○	◉
	(3) *found* you or any *advisory affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	○	◉
	(4) entered an *order* against you or any *advisory affiliate* in connection with *investment-related* activity?	○	◉
	(5) imposed a civil money penalty on you or any *advisory affiliate*, or *ordered* you or any *advisory affiliate* to cease and desist from any activity?	○	◉
D.	Has any other federal regulatory agency, any state regulatory agency, or any *foreign financial regulatory authority*:		
	(1) ever *found* you or any *advisory affiliate* to have made a false statement or omission, or been dishonest, unfair, or unethical?	○	◉
	(2) ever *found* you or any *advisory affiliate* to have been *involved* in a violation of *investment-related* regulations or statutes?	○	◉
	(3) ever *found* you or any *advisory affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	○	◉
	(4) in the past ten years, entered an *order* against you or any *advisory affiliate* in connection with an *investment-related* activity?	○	◉
	(5) ever denied, suspended, or revoked your or any *advisory affiliate's* registration or license, or otherwise prevented you or any *advisory affiliate*, by *order*, from associating with an *investment-related* business or restricted your or any *advisory affiliate's* activity?	○	◉
E.	Has any *self-regulatory organization* or commodities exchange ever:		
	(1) *found* you or any *advisory affiliate* to have made a false statement or omission?	○	◉
	(2) *found* you or any *advisory affiliate* to have been *involved* in a violation of its rules (other than a violation designated as a "*minor rule violation*" under a plan approved by the SEC)?	○	◉
	(3) *found* you or any *advisory affiliate* to have been the cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	○	◉
	(4) disciplined you or any *advisory affiliate* by expelling or suspending you or the *advisory affiliate* from membership, barring or suspending you or the *advisory affiliate* from association with other members, or otherwise restricting your or the *advisory affiliate's* activities?	○	◉
F.	Has an authorization to act as an attorney, accountant, or federal contractor granted to you or any *advisory affiliate* ever been revoked or suspended?	○	◉
G.	Are you or any *advisory affiliate* now the subject of any regulatory proceeding that could result in a "yes" answer to any part of Item 11.C., 11.D., or 11.E.?	○	◉

For "yes" answers to the following questions, complete a Civil Judicial Action DRP:

		Yes	No
H.	(1) Has any domestic or foreign court:		
	(a) in the past ten years, enjoined you or any *advisory affiliate* in connection with any *investment-related* activity?	○	◉
	(b) ever *found* that you or any *advisory affiliate* were *involved* in a violation of *investment-related* statutes or regulations?	○	◉
	(c) ever dismissed, pursuant to a settlement agreement, an *investment-related* civil action brought against you or any *advisory affiliate* by a state or *foreign financial regulatory authority*?	○	◉
	(2) Are you or any *advisory affiliate* now the subject of any civil proceeding that could result in a "yes" answer to any part of Item 11.H.(1)?	○	◉

Item 12 Small Businesses

The SEC is required by the Regulatory Flexibility Act to consider the effect of its regulations on small entities. In order to do this, we need to determine whether you meet the definition of "small business" or "small organization" under rule 0-7.

Answer this Item 12 only if you are registered or registering with the SEC **and** you indicated in response to Item 5.F.(2)(c) that you have regulatory assets under management of less than $25 million. You are not required to answer this Item 12 if you are filing for initial registration as a state adviser, amending a current state registration, or switching from SEC to state registration.

For purposes of this Item 12 only:

- Total Assets refers to the total assets of a firm, rather than the assets managed on behalf of *clients*. In determining your or another *person's* total assets, you may use the total assets shown on a current balance sheet (but use total assets reported on a consolidated balance sheet with subsidiaries included, if that amount is larger).
- *Control* means the power to direct or cause the direction of the management or policies of a *person*, whether through ownership of securities, by

contract, or otherwise. Any *person* that directly or indirectly has the right to vote 25 percent or more of the voting securities, or is entitled to 25 percent or more of the profits, of another *person* is presumed to *control* the other *person*.

	Yes	No
A. Did you have total assets of $5 million or more on the last day of your most recent fiscal year?	○	○

If "yes," you do not need to answer Items 12.B. and 12.C.

B. Do you:

(1) *control* another investment adviser that had regulatory assets under management (calculated in response to Item 5.F.(2)(c) of Form ADV) of $25 million or more on the last day of its most recent fiscal year?	○	○
(2) *control* another *person* (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year?	○	○

C. Are you:

(1) *controlled* by or under common *control* with another investment adviser that had regulatory assets under management (calculated in response to Item 5.F.(2)(c) of Form ADV) of $25 million or more on the last day of its most recent fiscal year?	○	○
(2) *controlled* by or under common *control* with another *person* (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year?	○	○

Schedule A

Direct Owners and Executive Officers

1. Complete Schedule A only if you are submitting an initial application or report. Schedule A asks for information about your direct owners and executive officers. Use Schedule C to amend this information.
2. Direct Owners and Executive Officers. List below the names of:
   (a) each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer(Chief Compliance Officer is required if you are registered or applying for registration and cannot be more than one individual), director, and any other individuals with similar status or functions;
   (b) if you are organized as a corporation, each shareholder that is a direct owner of 5% or more of a class of your voting securities, unless you are a public reporting company (a company subject to Section 12 or 15(d) of the Exchange Act);
   Direct owners include any *person* that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 5% or more of a class of your voting securities. For purposes of this Schedule, a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.
   (c) if you are organized as a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 5% or more of your capital;
   (d) in the case of a trust that directly owns 5% or more of a class of your voting securities, or that has the right to receive upon dissolution, or has contributed, 5% or more of your capital, the trust and each trustee; and
   (e) if you are organized as a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 5% or more of your capital, and (ii) if managed by elected managers, all elected managers.
3. Do you have any indirect owners to be reported on Schedule B? ◉ Yes ○ No
4. In the DE/FE/I column below, enter "DE" if the owner is a domestic entity, "FE" if the owner is an entity incorporated or domiciled in a foreign country, or "I" if the owner or executive officer is an individual.
5. Complete the Title or Status column by entering board/management titles; status as partner, trustee, sole proprietor, elected manager, shareholder, or member; and for shareholders or members, the class of securities owned (if more than one is issued).
6. Ownership codes are: NA - less than 5% B - 10% but less than 25% D - 50% but less than 75%
   A - 5% but less than 10% C - 25% but less than 50% E - 75% or more
7. (a) In the *Control Person* column, enter "Yes" if the *person* has *control* as defined in the Glossary of Terms to Form ADV, and enter "No" if the *person* does not have *control*. Note that under this definition, most executive officers and all 25% owners, general partners, elected managers, and trustees are *control persons*.
   (b) In the PR column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Exchange Act.
   (c) Complete each column.

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/ FE/ I	Status	Date Status Acquired MM/ YYYY	Ownership Code	Control Person	PR	*CRD* No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.
STRONG, JEFFREY, ALAN	I	MANAGING PARTNER AND CHIEF INVESTMENT OFFICER	01/2016	E	Y	N	6599894
KANE, JUSTIN, CHARLES	I	PARTNER, HEAD OF RESEARCH	01/2016	A	Y	N	6601540
LEUNG, KANCHANA, WANGKEO	I	PARTNER, CHIEF COMPLIANCE OFFICER, CHIEF OPERATING OFFICER, CHIEF LEGAL OFFICER	05/2016	NA	Y	N	6651838
BYKHOVSKY, ANATOLY	I	PARTNER AND ANALYST	01/2016	NA	Y	N	6602043
GILEAD CAPITAL GP LLC	DE	GENERAL PARTNER	01/2016	NA	Y	N	47-1971248

Schedule B

Indirect Owners

1. Complete Schedule B only if you are submitting an initial application. Schedule B asks for information about your indirect owners; you must first complete Schedule A, which asks for information about your direct owners. Use Schedule C to amend this information.

2. Indirect Owners. With respect to each owner listed on Schedule A (except individual owners), list below:

   (a) in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25% or more of a class of a voting security of that corporation;

   For purposes of this Schedule, a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.

   (b) in the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital;

   (c) in the case of an owner that is a trust, the trust and each trustee; and

   (d) in the case of an owner that is a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 25% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers.

3. Continue up the chain of ownership listing all 25% owners at each level. Once a public reporting company (a company subject to Sections 12 or 15(d) of the Exchange Act) is reached, no further ownership information need be given.

4. In the DE/FE/I column below, enter "DE" if the owner is a domestic entity, "FE" if the owner is an entity incorporated or domiciled in a foreign country, or "I" if the owner is an individual.

5. Complete the Status column by entering the owner's status as partner, trustee, elected manager, shareholder, or member; and for shareholders or members, the class of securities owned (if more than one is issued).

6. Ownership codes are: C - 25% but less than 50% E - 75% or more
   D - 50% but less than 75% F - Other (general partner, trustee, or elected manager)

7. (a) In the *Control Person* column, enter "Yes" if the *person* has *control* as defined in the Glossary of Terms to Form ADV, and enter "No" if the *person* does not have *control*. Note that under this definition, most executive officers and all 25% owners, general partners, elected managers, and trustees are *control persons*.

   (b) In the PR column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Exchange Act.

   (c) Complete each column.

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/ FE/ I	Entity in Which Interest is Owned	Status	Date Status Acquired MM/ YYYY	Ownership Code	Control Person	PR	*CRD* No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.
GILEAD CAPITAL GP LLC	DE	GILEAD CAPITAL LP	GENERAL PARTNER	01/2016	F	Y	N	47-1971248
STRONG, JEFFREY, ALAN	I	GILEAD CAPITAL GP LLC	MANAGING MEMBER AND SOLE OWNER	01/2016	E	Y	N	6599894

Schedule D - Miscellaneous

You may use the space below to explain a response to an Item or to provide any other information.

DRP Pages

CRIMINAL DISCLOSURE REPORTING PAGE (ADV)

No Information Filed

REGULATORY ACTION DISCLOSURE REPORTING PAGE (ADV)

No Information Filed

CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (ADV)

No Information Filed

Part 2

Exemption from brochure delivery requirements for SEC-registered advisers

SEC rules exempt SEC-registered advisers from delivering a firm brochure to some kinds of clients. If these exemptions excuse you from delivering a brochure to *all* of your advisory clients, you do not have to prepare a brochure.

	Yes	No
Are you exempt from delivering a brochure to all of your clients under these rules?	○	◉

If no, complete the ADV Part 2 filing below.

Amend, retire or file new brochures:

Brochure ID	Brochure Name	Brochure Type(s)
248042	ADV PART 2A - GILEAD CAPITAL LP	Other institutional

Execution Pages

DOMESTIC INVESTMENT ADVISER EXECUTION PAGE

You must complete the following Execution Page to Form ADV. This execution page must be signed and attached to your initial submission of Form ADV to the SEC and all amendments.

Appointment of Agent for Service of Process

By signing this Form ADV Execution Page, you, the undersigned adviser, irrevocably appoint the Secretary of State or other legally designated officer, of the state in which you maintain your *principal office and place of business* and any other state in which you are submitting a *notice filing*, as your agents to receive service, and agree that such *persons* may accept service on your behalf, of any notice, subpoena, summons, *order* instituting *proceedings*, demand for arbitration, or other process or papers, and you further agree that such service may be made by registered or certified mail, in any federal or state action, administrative *proceeding* or arbitration brought against you in any place subject to the jurisdiction of the United States, if the action, *proceeding*, or arbitration (a) arises out of any activity in connection with your investment advisory business that is subject to the jurisdiction of the United States, and (b) is *founded*, directly or indirectly, upon the provisions of: (i) the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these acts, or (ii) the laws of the state in which you maintain your *principal office and place of business* or of any state in which you are submitting a *notice filing*.

Signature

I, the undersigned, sign this Form ADV on behalf of, and with the authority of, the investment adviser. The investment adviser and I both certify, under penalty of perjury under the laws of the United States of America, that the information and statements made in this ADV, including exhibits and any other information submitted, are true and correct, and that I am signing this Form ADV Execution Page as a free and voluntary act.

I certify that the adviser's books and records will be preserved and available for inspection as required by law. Finally, I authorize any *person* having *custody* or possession of these books and records to make them available to federal and state regulatory representatives.

Signature:
KANCHANA WANGKEO LEUNG

Date: MM/DD/YYYY
02/02/2017

Printed Name:
KANCHANA WANGKEO LEUNG

Title:
CHIEF COMPLIANCE OFFICER

Adviser *CRD* Number:
282023

NON-RESIDENT INVESTMENT ADVISER EXECUTION PAGE

You must complete the following Execution Page to Form ADV. This execution page must be signed and attached to your initial submission of Form ADV to the SEC and all amendments.

1. Appointment of Agent for Service of Process

By signing this Form ADV Execution Page, you, the undersigned adviser, irrevocably appoint each of the Secretary of the SEC, and the Secretary of State or other legally designated officer, of any other state in which you are submitting a *notice filing*, as your agents to receive service, and agree that such persons may accept service on your behalf, of any notice, subpoena, summons, *order* instituting *proceedings*, demand for arbitration, or other process or papers, and you further agree that such service may be made by registered or certified mail, in any federal or state action, administrative *proceeding* or arbitration brought against you in any place subject to the jurisdiction of the United States, if the action, *proceeding* or arbitration (a) arises out of any activity in connection with your investment advisory business that is subject to the jurisdiction of the United States, and (b) is *founded*, directly or indirectly, upon the provisions of: (i) the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these acts, or (ii) the laws of any state in which you are submitting a *notice filing*.

2. Appointment and Consent: Effect on Partnerships

If you are organized as a partnership, this irrevocable power of attorney and consent to service of process will continue in effect if any partner withdraws from or is admitted to the partnership, provided that the admission or withdrawal does not create a new partnership. If the partnership dissolves, this irrevocable power of attorney and consent shall be in effect for any action brought against you or any of your former partners.

3. *Non-Resident* Investment Adviser Undertaking Regarding Books and Records

By signing this Form ADV, you also agree to provide, at your own expense, to the U.S. Securities and Exchange Commission at its principal office in Washington D.C., at any Regional or District Office of the Commission, or at any one of its offices in the United States, as specified by the Commission, correct, current, and complete copies of any or all records that you are required to maintain under Rule 204-2 under the Investment Advisers Act of 1940. This undertaking shall be binding upon you, your heirs, successors and assigns, and any *person* subject to your written irrevocable consents or powers of attorney or any of your general partners and *managing agents*.

Signature

I, the undersigned, sign this Form ADV on behalf of, and with the authority of, the *non-resident* investment adviser. The investment adviser and I both certify, under penalty of perjury under the laws of the United States of America, that the information and statements made in this ADV, including exhibits and any other information submitted, are true and correct, and that I am signing this Form ADV Execution Page as a free and voluntary act.

I certify that the adviser's books and records will be preserved and available for inspection as required by law. Finally, I authorize any *person* having *custody* or possession of these books and records to make them available to federal and state regulatory representatives.

Signature:

Date: MM/DD/YYYY

Printed Name:

Title:

Adviser *CRD* Number:
282023

EXHIBIT 2

Gilead Capital LP
Part 2A of Form ADV
The Brochure

GILEAD CAPITAL

Leadership Investing

Gilead Capital LP
157 Columbus Avenue, Suite 403
New York, NY 10023
646-693-6372

February 2, 2017

Gilead Capital LP ("Gilead Capital") is a federally registered investment adviser with the U.S. Securities and Exchange Commission ("SEC"). Being registered as an investment adviser does not imply a certain level of skill or training.

This brochure provides information about the qualifications and business practices of Gilead Capital. If you have any questions about the contents of this brochure, please contact us at 646-732-3154. The information in this brochure has not been approved or verified by the SEC or by any state securities authority.

Additional information about Gilead Capital also is available on the SEC's website at www.adviserinfo.sec.gov.

Item 2 - Material Changes

Material changes that have occurred since Gilead Capital's last annual update of its brochure on March 29, 2016 include the following:

In May 2016, Kanchana Wangkeo Leung was appointed as Gilead Capital's Chief Legal, Compliance, and Operating Officer.

Item 8 – Methods of Analysis, Investment Strategies and Risk of Loss.

Gilead Capital invests in the securities of companies in Europe, including the United Kingdom ("UK"). On June 23, 2016, the UK held a referendum and voted to withdraw as a member of the European Union ("EU") and as a party to the Treaty on the Functioning of the European Union and its related treaties – *i.e.*, "Brexit." The consequences of Brexit are extremely uncertain, and areas of uncertainty include, but are not limited to, trade within Europe, foreign direct investment in Europe, the scope and functioning of European regulatory frameworks (including with respect to regulation of alternative investment fund managers and the distribution and marketing of alternative investment funds), the regulation of financial services, and trade policy within EU countries and internationally. The volatility and uncertainty caused by Brexit may adversely affect the value of an Account's investments and the ability to achieve the investment objectives of the Account. Further, the Accounts may incur additional legal, regulatory, and other expenses in connection with its UK or European investments as a result of Brexit.

Item 12 – Brokerage Practices

Since its last annual update, Gilead Capital has determined that neither it nor its affiliates will enter into "soft dollar" arrangements, whereby we direct securities transactions to broker-dealers in return for research products and other services from the broker-dealer. Any change in policy or practice regarding soft dollars must be approved by the Chief Compliance Officer, and any use of soft dollars would also be limited to services that fall within the safe harbor afforded by Section 28(e) of the Securities Exchange Act of 1934, as amended, or such services that are reasonably related to the investment decision-making process.

Item 13 – Review of Accounts

Gilead Capital's investment team reviews the Accounts' investments on a regular basis.

Gilead Capital will distribute to all Accounts an annual, rather than quarterly, investment letter that explains the implementation of the investment strategy and reviews material changes and developments of Account portfolios.

Item 15 – Custody

Currently, Gilead Capital does not have the authority to deduct management fees directly from the client's Accounts. Therefore, such language has been deleted from the brochure.

Item 3 - Table of Contents

Item 4 - Advisory Business

Gilead Capital LP ("Gilead Capital," "we," "our," or "us"), a Delaware limited partnership with offices in New York, New York, was formed in January 2016. The principal owner is Jeffrey Strong. We provide discretionary investment advice and management services to certain institutional clients ("Managed Accounts" or "Accounts"), including pension plans, pursuant to investment management agreements ("Governing Documents"), and others. Please see Item 8 for more detail about our advisory services.

As of December 31, 2016, Gilead Capital's regulatory assets under management were approximately $101 million on a discretionary basis and $0 on a non-discretionary basis.

Gilead Capital primarily pursues a strategy of "Leadership Investing": long-term, responsible active ownership of high-quality companies. We focus on small-cap companies in North America and Europe and invest in both equities and corporate debt securities.

While each of the Accounts will follow the general strategy stated above, we may tailor the specific advisory services with respect to each Account based on the particular investment objectives and strategies described in the applicable Governing Documents for the Account.

All discussion of the Accounts in this Brochure, including but not limited to their investments, the strategies used in managing the Accounts, and conflicts of interest faced by us in connection with the management of the Accounts are qualified in their entirety by reference to each Account's respective Governing Documents.

Gilead Capital does not participate in wrap fee programs.

Item 5 - Fees and Compensation

Management Fees

Our clients generally compensate us for our investment advisory and management services through management fees and performance-based fees or allocations. Please see Item 6 for a description of our performance-based fees or allocations.

Gilead Capital charges a management fee for its investment services. The management fee ranges from 1% to 2% annually, depending on the amount of assets being managed, the client's withdrawal rights, and the timing of the investment, and may be negotiable.

Management fees are generally calculated and payable quarterly either in advance or in arrears. Accounts may authorize us to deduct management fees from their assets or may elect to receive a bill for applicable fees owed.

In the event of the termination of an investment advisory contract, any fees charged, but not earned, will be rebated upon termination of an investment advisory contract.

Fee Reductions and Offsets

We may, in our sole discretion, at any time and from time to time, waive, reduce, assign or otherwise share all or any portion of the management fee paid by an Account.

Gilead Capital's investment professionals may from time to time serve on the boards of directors of companies in which the Accounts invest. To the extent Gilead Capital or its investment professionals receive compensation from companies in which the Accounts invest, such compensation (if in the form of an in-kind asset, when converted to cash) will reduce management fees payable by the applicable Account.

Additional Expenses

Accounts pay all expenses associated with transactions in the portfolio, including, but not limited to: premiums paid for options, swap options and other derivative instruments acquired for an Account; brokerage commissions, clearing fees, bid/ask spreads and other costs of executing transactions for an Account; and legal, regulatory, or other professional fees and expenses, costs, settlement payments and judgments incurred in connection with the investment activity of an Account. Gilead Capital is not affiliated with any broker-dealer. Please refer to Item 12, Brokerage Practices, for more information.

Gilead Capital does not receive any fees from the sale of securities or other investment products.

Item 6 - Performance-Based Fees and Side-By-Side Management

Gilead Capital may receive performance-based fees from Managed Accounts. These fees are charged annually and are based on a share of the capital appreciation of the assets of an Account. The fees may be subject to benchmarks and clawbacks based on the applicable Governing Documents. These payments are subject to Section 205(a)(1) of the Investment Advisers Act of 1940, as amended (the "Advisers Act"), in accordance with the available exemptions thereunder, including the exemption set forth in Rule 205-3, which requires that performance-based fees only be charged to "qualified clients" (as such term is defined in Rule 205-3).

Performance-based fees in general may create an incentive for us to make investments that are riskier and more speculative than would be the case in the absence of a performance-based fee. Such fee arrangements may also create an incentive to favor higher fee-paying clients over other clients in the allocation of investment opportunities. To address these conflicts of interest with respect to any future clients, we have implemented policies and procedures to ensure that all clients receive equitable and fair treatment over time with respect to the allocation of investment opportunities.

Item 7 - Types of Clients

Investment is generally only available to institutional investors and certain high net worth investors that are "accredited investors," "qualified clients," and "qualified purchasers," or non-"U.S. persons," within the meaning of the Securities Act of 1933, as amended (the "Securities Act"), the Advisers Act and the Investment Company Act of 1940, as amended, as applicable. A broad range of U.S. and non-U.S. institutional investors, including, among others, governmental and corporate pension and profit sharing plans, endowments, insurance companies, sovereign wealth funds, funds of funds and certain high net worth individuals and family offices, may, if they are "qualified clients" as defined above, constitute Managed Accounts. Gilead Capital has no specific minimum account size requirements at this time.

Item 8 - Methods of Analysis, Investment Strategies and Risk of Loss

Methods of Analysis

Gilead Capital employs fundamental analysis and extensive research in selecting a limited number of investment opportunities. We use multiple sources of information in conducting our analysis, including original research and analysis, research material prepared by others, inspections of corporate and management activities, corporate rating services, annual reports, prospectuses, filings with the SEC and company press releases. We also use industry magazines, financial newspapers and magazines, third-party consultants, regulatory filings, contacts at major companies and corporate executives, professional service firms (e.g., law firms and accounting firms), commercial and investment banks, financial intermediaries and other investment and advisory institutions. Additionally, we may participate in onsite visits, industry group and portfolio company management meetings, creditors' committees and steering committees. In addition, Gilead Capital personnel may participate on the boards of directors of portfolio companies, which will also be a source of information with respect to such companies, subject to policies and procedures related to non-public and proprietary information.

Investment Strategies

Gilead Capital employs an investment strategy of "Leadership Investing" that combines the principles of long-term value investing with responsible active ownership. We take meaningful stakes in a concentrated group of companies that we believe have underachieved their business and valuation potential and work productively with management teams, boards of directors, and other stakeholders over long-term holding periods to elevate corporate achievement and valuation by enhancing governance, strengthening management, and improving strategy and execution.

We focus on companies with small to mid-market capitalizations and invest across a broad spectrum of industries in developed markets, including but not limited to North America and developed Europe. We invest primarily in equity and equity-linked securities of an issuer. We may also invest in corporate debt securities and derivatives. Corporate debt securities include corporate bonds, debentures, notes and other similar corporate debt instruments, including convertible securities. In addition, we may utilize financial instruments such as futures, forward contracts, stock index futures and options, and swaps, caps, and floors both for investment purposes and to seek to hedge against changes in currency exchange rates, market interest rates, and equity prices.

Material Risks

General. All investing involves a risk of loss, and the value of an Account's portfolio investments may increase or decrease. As a result, an Account may lose money on its investments in the portfolio, and there can be no assurance that Gilead Capital will achieve its investment objective. They are not a complete investment program. The value of an Account will fluctuate, sometimes dramatically, which means underlying investors could lose money.

Market. The market value of a security may decline due to general market conditions that are not specifically related to a particular company, such as real or perceived adverse economic conditions, changes in the outlook for corporate earnings, changes in interest or currency rates or adverse investor sentiment generally. A security's market value may also decline because of factors that affect a

particular industry or industries, such as labor shortages, increased production costs, or competitive conditions within an industry.

Issuer. The value of a security may decline for a number of reasons which directly relate to the issuer, including but not limited to management performance, financial leverage, and reduced demand for the issuer's products or services.

Portfolio Concentration. Gilead Capital manages concentrated portfolios of investments in small-cap issuers in developed markets. As a result of the limited number of securities in the portfolios, an Account's investment may, from time to time, have significant concentrations in particular markets, sectors, and geographies. This concentration may magnify the volatility of an Account's portfolio.

Equity Securities. Common shares and other equity securities can be affected by macro-economic and other factors affecting the stock market in general, expectations of interest rates, investor sentiment, changes in a particular issuer's financial condition, or unfavorable or unanticipated poor performance of a particular issuer. Prices of common shares and other equity securities also can be affected by fundamentals unique to the partnership or company, including earnings power and coverage ratios.

Fixed Income Securities and Loans. Gilead Capital may cause an Account to invest in fixed income related investments of U.S. and non-U.S. issuers, including, without limitation, bank debt, bonds, and notes as well as derivatives thereon. Fixed income securities generally pay fixed, variable or floating rates of interest. The value of fixed income securities will often change in response to fluctuations in interest rates. In addition, the value of certain fixed income securities and bank loans can fluctuate in response to perceptions of creditworthiness, foreign exchange rates, political stability or soundness of economic policies. Fixed income securities and bank loans, particularly in the case of higher-yielding debt instruments in which Gilead Capital invests, are subject to the risk of the issuer's inability to meet principal and interest payments on its obligations (i.e., credit risk) and are subject to price volatility due to such factors as interest rate sensitivity and general market liquidity (i.e., market risk). Further, in seeking to capture certain price appreciation opportunities, we may purchase certain debt instruments for an Account that are nonperforming and possibly in default where the obligor or relevant guarantor may be in bankruptcy or liquidation (e.g., bankruptcy claims). Accordingly, there can be no assurance as to the amount and timing of payments, if any, with respect to these debt investments or that any such investments will be profitable.

Liquidity. Gilead Capital may acquire thinly traded investments that are difficult to dispose of quickly. In addition, investments that were once liquid may become illiquid, making it difficult to acquire or dispose of them at the prices at which they are valued by us and/or the custodian and/or the auditor. We may also engage with issuers in ways that restrict our ability to acquire or dispose of related investments (e.g., by serving on the board of directors of an issuer). Gilead Capital's ability to respond to market movements may be impaired, and we may experience adverse price movements upon liquidation of the investments. Illiquid securities may sell at a lower price than similar securities that are not illiquid, and the sale of illiquid investments often requires more time and results in higher selling expenses. Any premature sales or dispositions may prevent us from realizing as great an overall return on investment as may have been realized if such sales or dispositions had been made at a later date.

Foreign Securities. The Accounts may invest in foreign securities. Investments in securities of non-U.S. issuers (including foreign governments) and securities denominated or whose prices are quoted in non-U.S. currencies pose currency exchange risks (including blockage, devaluation, and non-exchangeability) as well as a range of other potential risks which could include, depending on the country involved, expropriation, confiscatory taxation, political or social instability, illiquidity, price

volatility and market manipulation. In addition, less information may be available regarding securities of non-U.S. issuers, and non-U.S. companies may not be subject to accounting, auditing, and financial reporting standards and requirements comparable to or as uniform as those of U.S. companies. Transaction costs of investing in non-U.S. securities markets are generally higher than in the U.S.

Active Ownership. Gilead Capital's investment strategy in part relies on active ownership of our Accounts' portfolio companies. There can be no assurance that the management or board of directors of any portfolio company will assent to working closely with Gilead Capital or implementing our suggestions. Our ability to influence management teams and boards of directors will require, among other things: (i) that we correctly identify companies that are underachieving their potential; (ii) that the Accounts are able to acquire sufficient stakes in such companies as to afford us influence with company management teams or boards of directors; (iii) that our actions do not incite significant opposition from other shareholders, management, the board of directors, or other stakeholders; (iv) that management and the boards of directors of portfolio companies do not take value-destroying defensive actions in response to our engagement; and (iv) that our strategies and suggestions implemented by portfolio companies create economic value and receive positive response from the markets. There is no guarantee that we will be able to achieve these aims.

Swap Agreements. The Accounts may enter into different types of swap agreements, including, without limitation, swaps with respect to U.S. or non-U.S. interest rates, foreign exchange rates, corporate borrowing rates, commodity prices, baskets of equity securities or inflation rates. Swaps may also be used to obtain leverage. In connection with swap agreements, cash is or securities are generally posted to or received from the swap counterparty in accordance with the terms of the swap agreement, which may expose the Accounts to further risks.

Options. The Accounts may buy and sell options on securities, currencies and commodities on exchanges and in the over-the-counter market. The seller of a put option assumes the risk of a decline in the market price of the underlying security, currency or commodity below the exercise price of the option, although this may be mitigated by an offsetting short position in the underlying security (a "covered put"). The seller of a call option assumes the risk of a theoretically unlimited increase in the market price of the underlying security, currency or commodity above the exercise price of the option, although this may be mitigated by an offsetting long position in the underlying security (a "covered call"). Buyers of puts and calls will lose their option premium if the option expires worthless and is not resold prior to expiration.

Futures Contracts. The Accounts may trade futures contracts that reference a wide variety of equity indices, government bonds, commodities and other underlying instruments and indices on futures exchanges regulated by the Commodity Futures Trading Commission ("CFTC") and other regulatory organizations. Futures contracts are levered because of the limited margin typically required for futures traded on an exchange. Futures positions can be volatile and may become illiquid. Certain futures exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as "daily limits." Under these daily limits, during a single trading day no trades may be executed at prices beyond the daily limits, which may result in futures positions becoming illiquid, reducing the Accounts' ability to liquidate unfavorable positions and potentially exposing the Accounts to substantial losses. It also is possible that an exchange or the CFTC may suspend trading in a particular contract, order immediate liquidation and settlement of a particular contract, or order that trading in a particular contract be conducted for liquidation only.

Currency Trading and Forward Contracts. The Accounts may engage in spot and forward transactions in currencies of different countries involving outright purchases and sales, forward contracts and options on currencies. Forward currency contracts are agreements to purchase or sell one specified currency for another currency at a specified future date and price determined at the inception of the contract. Forward contracts are not traded on exchanges and are not standardized; rather, banks and dealers act as principals in these markets, negotiating each transaction on an individual basis. Forward and spot trading is substantially unregulated and there is no limitation on daily price movements or any requirement to segregate customer funds or positions. As a result, trading in interbank foreign exchange contracts may be subject to more risks than futures or options trading on regulated exchanges, including, but not limited to, the risk of default due to the failure of a counterparty with which the Accounts have a forward contract. The banks who deal in the forward markets are not required to continue to make markets in the currencies they trade and these markets can experience periods of illiquidity, sometimes of significant duration. There have been periods during which certain participants in these markets have refused to quote prices for certain currencies or have quoted prices with an unusually wide spread between the price at which they were prepared to buy and that at which they were prepared to sell. Disruptions can occur in any currency due to unusually high trading volume, political intervention or other factors. The imposition of foreign exchange controls by governmental authorities also might limit trading. Market illiquidity or disruption could result in major losses to the Accounts.

Convertibles. The Accounts may invest in fixed income and other securities that may be converted into or exchanged for a specified amount of another security (typically common equity) of the same or different issuer within a particular period of time at a specified price or formula. Convertible securities are exposed to changes in the price of the security into which they are convertible, changes in the creditworthiness of the issuer, changes in interest rates, and changes in overall fixed-income risk premiums. The Accounts and other investors in convertible securities frequently hedge their position by selling short all or a portion of the underlying securities into which they are convertible. As a result, to the extent that they hedge in this fashion, the Accounts may also be exposed to the following risks: (i) the loss of the ability to hedge the security due to loss of stock loan or a corporate event such as a merger; (ii) an unexpected increase in dividends by the issuer making hedging more expensive and thus lowering the value of the conversion option; (iii) an unexpected termination of the conversion option due to a cash takeover of the issuer; (iv) a decline in the volatility of the underlying security by reason of a share-for-share takeover or otherwise which also tends to reduce the value of the conversion option and (v) a failure of the issuer to deliver common stock upon receipt of a conversion notice, preventing the Accounts from liquidating their hedge.

Hedging Transactions. Gilead Capital may seek to hedge certain generic market risks to which the Accounts' portfolios are exposed, such as foreign exchange, interest rate and equity market risk. However, Gilead Capital is not obligated to hedge any specific risk and may elect not to hedge the Accounts' portfolios against certain risks or to alter the extent to which they are so hedged from time to time. Although hedging transactions are typically intended to reduce specific risks to which Gilead Capital believes the Accounts' portfolios are exposed, such transactions may fail to reduce, or even increase, the overall risk of the portfolios, causing them to experience poorer performance than if the Accounts had not engaged in such hedging transactions. Moreover, the portfolios will always be exposed to certain risks that cannot be hedged.

Reliance on the Advisor. Gilead Capital's ability to achieve its investment objectives is dependent on its ability to identify and execute profitable investment opportunities. Therefore, the success of the

Accounts depends significantly on the expertise and decision making of Jeffrey A. Strong and certain other of our key personnel. The death, incapacity, or withdrawal of Mr. Strong or other key personnel could materially adversely affect the Accounts.

Limited Operating History. Gilead Capital has a limited operating history. The past investment performance of our partners, principals or employees or other entities with which we may have been affiliated is not an indication of the future results of any Account. A client's investment program should be evaluated on the basis that there can be no assurance that our assessments of the short-term or long-term prospects of investments will prove accurate or that a client's investment program will prove successful.

Inside Information. From time to time, Gilead Capital or its affiliates may come into possession of material, non-public information concerning an entity in which the Accounts have invested or propose to invest. This is particularly relevant to Gilead Capital because its employees occasionally serve as directors of the Accounts' portfolio companies. Applicable law may limit the ability of the Accounts to buy or sell securities of such entity while such information remains non-public and material. The resulting illiquidity may result in delays and additional costs, and transactions may be possible only at substantial discounts.

Brexit – Changes to the European Union and the Applicability of the Treaty on the Functioning of the European Union. Gilead Capital may invest in securities in the United Kingdom. On June 23, 2016, the United Kingdom held a referendum and voted to withdraw as a member of the European Union and as a party to the Treaty on the Functioning of the European Union and its related treaties. The consequences of this referendum are extremely uncertain and it has already caused significant volatility in global financial markets and uncertainty about the integrity and functioning of the European Union, both of which may persist for an extended period of time. The process for the United Kingdom withdrawing from the European Union is likely to take a number of years and the exact date of withdrawal is unknown. To formally initiate the withdrawal process, the United Kingdom must notify the European Council of its intention to withdraw from the European Union, and it is currently unclear when such notification will be given. Once such notification is given, a two-year separation period will be triggered under Article 50 of the Treaty on European Union during which the United Kingdom and the European Union will attempt to negotiate withdrawal arrangements governing the United Kingdom's withdrawal from, and its future relationship with, the European Union. Unless an extension of this separation period is agreed upon by all member states of the European Union, the United Kingdom's withdrawal will be effective at the end of the two-year period, regardless of whether a withdrawal agreement has been finalized. In the intervening period, the United Kingdom will remain a member of the European Union and continue to be subject to its laws and regulations. Political parties in several other member states of the European Union have proposed that a similar referendum be held on their country's membership in the European Union. It is unclear whether any other member states of the European Union will hold such referendums, but further disruption can be expected if they are.

Areas where the uncertainty created by the United Kingdom's vote to withdraw from the European Union is relevant includes, but is not limited to, trade within Europe, foreign direct investment in Europe, the scope and functioning of European regulatory frameworks (including with respect to the regulation of alternative investment fund managers and the distribution and marketing of alternative investment funds), industrial policy pursued within European countries, immigration policy pursued within European Union countries, the regulation of the provision of financial services within and to persons in Europe and trade policy within European countries and internationally. The volatility and uncertainty caused by the referendum may adversely affect the value of the Fund's investments and the

ability to achieve the investment objective of the Fund. The Fund may incur additional legal, regulatory, or other expenses in connection with its United Kingdom investments or may suffer disruptions in service or trading ability if its counterparties, brokers or service providers take certain actions (e.g., moving staff) in response to the referendum.

Item 9 - Disciplinary Information

Neither Gilead Capital nor any of its management persons has been involved in any legal or disciplinary events that are material to an evaluation of our advisory services or the integrity of management.

Item 10 - Other Financial Industry Activities and Affiliations

Gilead Capital is not registered, and does not have an application pending to register, as a broker-dealer or registered representative of a broker-dealer. None of our employees are registered representatives of a broker-dealer.

Neither Gilead Capital nor any of its management persons are registered, or have an application pending to register, as a futures commission merchant, commodity pool operator, commodity trading advisor, or an associated person of the foregoing entities.

Gilead Capital is under the control of Jeffrey A. Strong. Gilead Capital does not have any other relationships or arrangements with any related persons that are material to its advisory business.

Gilead Capital does not recommend or select other investment advisers for its Accounts.

Item 11 - Code of Ethics, Participation or Interest in Client Transactions and Personal Trading

Gilead Capital has adopted a written Code of Ethics (the "Code") designed to address and mitigate potential conflicts of interest as required under Rule 204A-1 of the Advisers Act. The Code also sets forth a standard for business conduct and compliance with federal securities laws by all of our employees. Employees must adhere to the highest standards of ethical conduct and deal fairly with our clients.

Our investment strategy occasionally calls for our employees to serve on portfolio companies' boards of directors. In such instances, Gilead Capital will likely hold significant beneficial ownership positions in public companies, have frequent contact with portfolio company employees, and may be acting in one or more different capacities. The Code sets forth the potential risks and conflicts of interest that may arise in these types of situations, including among others, receipt of material non-public information and personal securities transactions described below. The Code details procedures for reviewing and mitigating those risks and conflicts.

The Code contains policies and procedures that ensure that all personal securities trading by employees of Gilead Capital is conducted in such a manner as to avoid actual or potential conflicts of interest or any abuse of an individual's position of trust and responsibility, including towards our clients and where employees serve on portfolio companies' boards of directors. We prohibit personal trading on certain securities or instruments; require pre-clearance of personal trades in certain circumstances, including purchases of an IPO or a new private placement; require periodic reporting of employees' personal securities transactions and holdings; and require prompt internal reporting of Code violations.

Gilead Capital has established procedures to prevent the abuse of material, non-public information, which includes procedures for, among other things, the use and maintenance of watch lists and restricted trading lists. Because our structure makes information barriers impractical, we have not imposed information barriers to restrict the internal flow of possible material, non-public information. Thus, all employees who serve on portfolio companies' boards of directors are presumed to be in receipt and possession of material, non-public information, and therefore no employee may trade on the basis of such material, non-public information obtained while serving on said board of directors. Other employees are required to immediately contact the Chief Compliance Officer or its designee in all instances where they believe they may have received any material, non-public information. Gilead Capital will provide a copy of the Code to any investor or prospective investor upon request.

Gilead Capital and/or its employees may give advice and take action for their own accounts that may differ from advice given and action taken on behalf of the Accounts. In addition, Gilead Capital's employees may invest in third-party private investment funds that invest in some of the same securities Gilead Capital invests in on behalf of the Accounts. Further, from time to time, Gilead Capital's employees may have an investment position or interest in the same securities recommended to or owned by the Accounts and may hold an interest in securities prior to the Accounts initiating a position in such securities. As such, Gilead Capital may purchase or sell for the Accounts securities of an issuer in which Gilead Capital's employees also have an investment position or interest.

Allowing employees to hold or trade the same securities as the Accounts in the limited circumstances described further below could present certain potential conflicts of interest. For example, employees could have an existing investment that opposes the position of the Accounts (i.e., an employee has an

existing short position when the Accounts have or take a long position, or vice versa), and thus the employee could potentially experience a conflict between acting in his/her own best interest versus the Accounts' best interests. Employees may also have an incentive to cause the Accounts to invest in companies in which the employees already have an interest, especially if the employees believe that such an investment by the Accounts may increase the value of their personal stake.

Item 12 - Brokerage Practices

Gilead Capital has complete discretion to determine, subject to each Account's disclosed investment objectives, policies and strategies, the securities to be purchased or sold and in what amounts, the broker-dealers and other financial intermediaries to use in effecting the transactions for Accounts, and the commission rates to be paid for such transactions.

We select broker-dealers and other financial intermediaries used to effect transactions on behalf of our Accounts. For certain Accounts the selection of broker-dealers is based on a preapproved list of financial institutions. We seek to obtain "best execution" from broker-dealers based on a variety of factors. In selecting broker-dealers to effect portfolio transactions, we may cause an Account to enter into arrangements pursuant to which the Account pays transaction costs in an amount greater than would be incurred if another broker-dealer were used. We are not required to solicit competitive bids or seek the lowest available commission or transaction costs. The transactions executed by an Account may be cleared through, and the Account's investment instruments may be held by the Accounts' custodians.

Research and Other Soft Dollar Benefits

Gilead Capital or its affiliates do not intend to receive products and services in addition to brokerage services from an Account's broker-dealers, or otherwise enter into any "soft dollar" arrangements with one or more broker-dealers whereby we will direct securities transactions to the broker-dealer in return for research products and services from the broker-dealer.

If Gilead Capital or its affiliates determine to change its policy or practice regarding soft dollars, all requests for research or brokerage products or services would require approval from the Chief Compliance Officer or its designee, and we would limit the use of soft dollars to services that fall within the safe harbor afforded by Section 28(e) of the Securities Exchange Act of 1934, as amended, or such services that are otherwise reasonably related to the investment decision-making process.

Brokerage for Client Referrals

Gilead Capital does not consider the receipt of client referrals when selecting broker-dealers to execute transactions.

Directed Brokerage

Gilead Capital does not permit clients to direct brokerage to a specified broker-dealer. All brokerage transactions will be executed through the broker-dealers selected by Gilead Capital, but such selections may be based on a list of broker-dealers approved by an Account.

Aggregate Orders

In general (and when applicable), Gilead Capital attempts to aggregate multiple orders for the purchase or sale of the same instrument for various clients into block transactions, subject to the overall obligation to achieve best price and execution for its Accounts.

Item 13 - Review of Accounts

Gilead Capital's investment team, which includes the Chief Investment Officer and the Director of Research, review the Accounts' investments on a regular basis. Such reviews cover Account performance relative to stated objectives, exposure to various risks, alternative investment opportunities, ongoing research findings, and investment strategy progress and compliance.

Gilead Capital provides Accounts with a written monthly performance report that details the performance and key characteristics of the Accounts' portfolios. We distribute to all Accounts a written annual investment letter that explains the implementation of the investment strategy and reviews material changes and developments of Account portfolios. Additionally, each Account receives a statement from the custodian that includes an accounting of all holdings and transactions in the Account for the reporting period.

Item 14 - Client Referrals and Other Compensation

Gilead Capital does not receive any economic benefit, including sales awards or prizes, from anyone who is not a client for providing investment advisory services to the Accounts.

As of February 1, 2016, Gilead Capital does not compensate non-supervised persons for referrals. However, we may enter into agreements with persons who refer potential investors to us. For their referral services, these persons may receive compensation from us in the form of a percentage of the management fee and/or performance-based compensation that Gilead Capital and its affiliates receive from the Accounts opened by the referred investors. All solicitation arrangements that we may enter into will be designed to comply with Rule 206(4)-3 under the Advisers Act and any similar state regulations. The Accounts and their underlying investors are not responsible for any of the fees paid to the referring persons.

Item 15 - Custody

All Managed Accounts are held by independent qualified custodians who provide monthly or quarterly statements directly to the clients. The statements will reflect the client's funds and securities held with the qualified custodian as well as any transactions that occurred in the Account. Managed Account clients should carefully review the statements they receive from their qualified custodian.

Item 16 - Investment Discretion

Gilead Capital has discretionary trading authority over the Accounts. Our investment discretion is exercised in a manner consistent with each Account's stated investment objectives, policies, and strategies, as set forth in its Governing Documents. Investors generally may not place any limits on our authority beyond the limitations set forth in such documents.

Managed Account clients grant us discretionary authority in the Governing Documents they sign with us. Such clients also give us trading authority over their Accounts when they sign the custodian agreements. However, certain Managed Account client-imposed conditions may limit our discretionary authority, such as where the client prohibits transactions in specific security types.

Item 17 - Voting Client Securities

Gilead Capital is responsible for voting the proxies on securities held in the Accounts. We follow proxy voting policies and procedures to ensure that we vote in the best interest of that Account. The policies and procedures are summarized below.

Gilead Capital focuses on proxy voting because it is a critical component of exercising shareholder rights and communicating with a portfolio company's board of directors and management. We determine how to vote after studying the proxy materials and any other materials that may be necessary or beneficial to understanding the proxy proposals. We then vote proxies in the manner we believe reasonably furthers the best interests of our Accounts and their investors and is consistent with the investment strategy as set forth in the relevant Account Governing Documents.

If a proxy vote creates a material conflict between the interests of Gilead Capital and an Account, we will resolve the conflict before voting the proxies by discussing the conflict with the investors in the Account. We will take steps designed to ensure that the decision to vote the proxy was based on our determination of the Account's best interest and was not the product of the conflict.

Additionally, because affiliates of Gilead Capital may serve on the board of directors of a portfolio company in which an Account invests, conflicts of interest may arise with respect to portfolio company proxy voting. The board of directors of a portfolio company (including any director affiliated with us) has a fiduciary duty to all shareholders as well as other stakeholders in the company. We will identify any conflicts that may exist between the duties of a Gilead Capital director to the shareholders and other stakeholders in the portfolio company and the interests of the applicable Accounts. This examination will also include a review of our affiliation with the portfolio company and any of such company's affiliates to determine if the portfolio company or its affiliates have a conflicting relationship with the applicable Accounts or any of their respective investors. We will determine which votes are in the best interests of the applicable Accounts and will endeavor to act in accordance with such best interests.

Gilead Capital maintains records of all proxy voting policies and procedures as well as votes that are made on behalf of its Accounts. Such records are available to each Account's underlying investors upon request.

Item 18 - Financial Information

We do not require or solicit prepayment of fees six months or more in advance.

We do not believe there are any financial conditions that would impair our ability to meet our contractual commitments to the Accounts. We have not been the subject of a bankruptcy petition at any time during the past ten years.

EXHIBIT 3

United States of America

United States Patent and Trademark Office

Leadership Investing

Reg. No. 5,127,612

Registered Jan. 24, 2017

Int. Cl.: 36

Service Mark

Principal Register

Gilead Capital LP (DELAWARE LIMITED PARTNERSHIP), DBA Gilead Capital ,
157 Columbus Avenue, Ste. 403
New York, NY 10023

CLASS 36: Hedge fund investment services; Investment advisory services; Investment management; Financial services, namely, operation and management of hedge funds, commodity pools and other collective investment vehicles, and trading for others of securities, options, futures, derivatives, debt instruments and commodities

FIRST USE 1-15-2016; IN COMMERCE 1-15-2016

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown: "INVESTING"

SER. NO. 87-049,125, FILED 05-25-2016
JANET H LEE, EXAMINING ATTORNEY

Michelle K. Lee

Director of the United States
Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*
What and When to File:

- ***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

- ***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see http://www.wipo.int/madrid/en/.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at http://www.uspto.gov.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at http://www.uspto.gov.

EXHIBIT 4

10-K 1 a2016form10-k.htm 10-K

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2016

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to
Commission File No. 0-19731

GILEAD SCIENCES, INC.
(Exact name of registrant as specified in its charter)

Delaware	**94-3047598**
(State or Other Jurisdiction of Incorporation or Organization)	**(I.R.S. Employer Identification No.)**
333 Lakeside Drive, Foster City, California	**94404**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number, including area code: 650-574-3000

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:

Title of each class	Name of each exchange on which registered
Common Stock, $0.001 par value per share	The Nasdaq Global Select Market

SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT: NONE

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒	Accelerated filer ☐	Non-Accelerated filer ☐	Smaller reporting company ☐

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant based upon the closing price of its Common Stock on the Nasdaq Global Select Market on June 30, 2016 was $103,455,508,531.*

The number of shares outstanding of the registrant's Common Stock on February 16, 2017 was 1,307,066,900.

DOCUMENTS INCORPORATED BY REFERENCE

Specified portions of the registrant's proxy statement, which will be filed with the Commission pursuant to Regulation 14A in connection with the registrant's

2017 Annual Meeting of Stockholders, to be held on May 10, 2017, are incorporated by reference into Part III of this Report.

* Based on a closing price of $83.42 per share on June 30, 2016. Excludes 90,648,083 shares of the registrant's Common Stock held by executive officers, directors and any stockholders whose ownership exceeds 5% of registrant's common stock outstanding at June 30, 2016. Exclusion of such shares should not be construed to indicate that any such person possesses the power, direct or indirect, to direct or cause the direction of the management or policies of the registrant or that such person is controlled by or under common control with the registrant.

GILEAD SCIENCES, INC.

2016 Form 10-K Annual Report

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We own or have rights to various trademarks, copyrights and trade names used in our business, including the following: GILEAD®, GILEAD SCIENCES®, AMBISOME®, CAYSTON®, COMPLERA®, DESCOVY®, EMTRIVA®, EPCLUSA®, EVIPLERA®, GENVOYA®, HARVONI®, HEPSERA®, LETAIRIS®, ODEFSEY®, RANEXA®, SOVALDI®, STRIBILD®, TRUVADA®, TYBOST®, VEMLIDY®, VIREAD®, VITEKTA®, VOLIBRIS® and ZYDELIG®. ATRIPLA® is a registered trademark of Bristol-Myers Squibb & Gilead Sciences, LLC. LEXISCAN® is a registered trademark of Astellas U.S. LLC. MACUGEN® is a registered trademark of Eyetech, Inc. SUSTIVA® is a registered trademark of Bristol-Myers Squibb Pharma Company. TAMIFLU® is a registered trademark of Hoffmann-La Roche Inc. This report also includes other trademarks, service marks and trade names of other companies.

This Annual Report on Form 10-K, including the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations," contains forward-looking statements regarding future events and our future results that are subject to the safe harbors created under the Securities Act of 1933, as amended (the Securities Act), and the Securities Exchange Act of 1934, as amended (the Exchange Act). Words such as "expect," "anticipate," "target," "goal," "project," "hope," "intend," "plan," "believe," "seek," "estimate," "continue," "may," "could," "should," "might," variations of such words and similar expressions are intended to identify such forward-looking statements. In addition, any statements other than statements of historical fact are forward-looking statements, including statements regarding overall trends, operating cost and revenue trends, liquidity and capital needs and other statements of expectations, beliefs, future plans and strategies, anticipated events or trends and similar expressions. We have based these forward-looking statements on our current expectations about future events. These statements are not guarantees of future performance and involve risks, uncertainties and assumptions that are difficult to predict. Our actual results may differ materially from those suggested by these forward-looking statements for various reasons, including those identified in Part I, Item 1A of this Form 10-K under the heading "Risk Factors." Given these risks and uncertainties, you are cautioned not to place undue reliance on forward-looking statements. The forward-looking statements included in this report are made only as of the date hereof. Except as required under federal securities laws and the rules and regulations of the Securities and Exchange Commission (SEC), we do not undertake, and specifically decline, any obligation to update any of these statements or to publicly announce the results of any revisions to any forward-looking statements after the distribution of this report, whether as a result of new information, future events, changes in assumptions or otherwise.

PART I

ITEM 1. BUSINESS

Overview

Gilead Sciences, Inc. (Gilead, we or us), incorporated in Delaware on June 22, 1987, is a research-based biopharmaceutical company that discovers, develops and commercializes innovative medicines in areas of unmet medical need. With each new discovery and investigational drug candidate, we strive to transform and simplify care for people with life-threatening illnesses around the world. We have operations in more than 30 countries worldwide, with headquarters in Foster City, California. Gilead's primary areas of focus include human immunodeficiency virus (HIV), liver diseases such as chronic hepatitis C virus (HCV) infection and chronic hepatitis B virus (HBV) infection, hematology/oncology, cardiovascular and inflammation/respiratory diseases. We seek to add to our existing portfolio of products through our internal discovery and clinical development programs and through product acquisition and in-licensing strategies.

2016 Highlights

Over the past year, we continued to bring best-in-class drugs to market that advance the standard of care by offering enhanced modes of delivery, more convenient treatment regimens, improved resistance profiles, reduced side effects and greater efficacy. In the area of HIV, U.S. Food and Drug Administration (FDA) and the European Commission approved two tenofovir alafenamide (TAF)-based regimens: Odefsey® (emtricitabine 200 mg/rilpivirine 25 mg/tenofovir alafenamide 25 mg) for the treatment of HIV-1 infection in certain patients and Descovy® (emtricitabine 200 mg/tenofovir alafenamide 25 mg), a fixed-dose combination for the treatment of HIV-1 infection. In the liver diseases area, we received FDA and European Commission approval of Epclusa® (sofosbuvir 400 mg/velpatasvir 100 mg), the first all-oral, pan-genotypic, single-tablet regimen for the treatment of adults with genotype 1-6 chronic HCV infection. Epclusa is also the first single-tablet regimen approved for the treatment of patients with HCV genotype 2 and 3, without the need for ribavirin. We also received FDA approval of Vemlidy® (tenofovir alafenamide 25 mg), a once-daily treatment for adults with HBV infection with compensated liver disease. In the inflammation/respiratory area, we advanced filgotinib, a JAK1 inhibitor we are developing with Galapagos NV (Galapagos) to Phase 3 clinical trials for the potential treatment of rheumatoid arthritis, Crohn's disease and ulcerative colitis. At the end of 2016, our research and development pipeline included 167 active clinical studies, of which 61 were Phase 3 clinical trials.

In addition to advancing treatment options across therapeutic areas, we also enabled access to our medications for people who need them around the world. We continued to expand access to our medicines in low- and middle-income countries by pursuing multiple strategies, including entering into collaborations with governments, generic manufacturers, regional business partners, policy makers, healthcare providers, patient groups and public health entities. Today, 10 million people are receiving Gilead HIV medicines in low- and middle-income countries. In 2016, we also entered into a partnership with the World Health Organization (WHO) to provide $20 million in funding and drug donations over five years to expand access to diagnostic services and treatment for visceral leishmaniasis, the world's second-deadliest parasitic infectious disease that affects up to 300,000 people annually in resource-limited countries.

HIV

Our goal is to ensure that all HIV patients can choose a single-tablet regimen that is right for them. Single-tablet regimens allow patients to adhere to a fully suppressive course of therapy more easily and consistently, which is critical for the successful management of the disease. HIV patients are living longer, thus facing additional health challenges to those experienced by newly diagnosed patients. We are motivated to continue improving on existing treatment options. The need for efficacy together with improved long-term safety has driven our development programs and the design of the studies we have completed and those that are planned.

Our TAF single-tablet regimens seek to address the diverse needs of HIV patients worldwide. TAF is a novel targeted prodrug of tenofovir that has demonstrated high antiviral efficacy similar to and at a dose less than one-tenth that of Viread® (tenofovir disoproxil fumarate, TDF), as well as improvement in surrogate laboratory markers of renal and bone safety as compared to TDF in clinical trials in combination with other antiretroviral agents. With the launch of our two TAF-based single-tablet regimens, Genvoya® (elvitegravir 150mg/cobicistat 150 mg/emtricitabine 200 mg/tenofovir alafenamide 10 mg) and Odefsey, we now have five single-tablet regimens available for the treatment of HIV. Odefsey is currently the smallest pill of any single-tablet regimen for the treatment of HIV. Descovy, a fixed-dose combination for the treatment of HIV, also represents an important evolution in HIV care, as it is the first new HIV treatment backbone approved by FDA in more than a decade.

In addition, we are evaluating bictegravir/emtricitabine/TAF in Phase 3 studies for the treatment of HIV. We anticipate completing these studies in the third quarter of 2017.

Liver Diseases

Our goal is to advance the treatment options and standard of care for the HCV market. With the approval of Sovaldi® (sofosbuvir 400 mg), compared to the prior standard of care of up to 48 weeks, the duration of treatment was shortened to as few as 12 weeks and the need for peg-interferon injections in certain viral genotype populations was reduced or eliminated completely. Harvoni® (ledipasvir 90 mg/sofosbuvir 400 mg) is the first once-daily single-tablet regimen for the treatment of HCV genotype 1-infected patients, the most prevalent genotype in the United States. In 2016, we received approval of Epclusa, the first all-oral, pan-genotypic, single-tablet regimen for the treatment of adults with genotype 1-6 chronic HCV infection. Epclusa is also the first single-tablet regimen approved for the treatment of patients with HCV genotype 2 and 3, without the need for ribavirin. In the fourth quarter of 2016, we submitted a new drug application to FDA for the approval of an investigational, once-daily, single-tablet regimen containing sofosbuvir 400 mg, velpatasvir 100 mg and voxilaprevir 100 mg (SOF/VEL/VOX), for the treatment of HCV. The product, if approved, would offer an effective cure for patients who have failed prior therapy with other highly effective regimens.

In 2016, we received FDA approval of Vemlidy, a once-daily treatment for adults with HBV infection with compensated liver disease.

We are also evaluating selonsertib, an investigational small-molecule inhibitor of apoptosis signal-regulating kinase 1, or ASK-1, for the treatment of nonalcoholic steatohepatitis (NASH) in Phase 3 clinical trials. Based on the Phase 2 results, we intend to evaluate selonsertib in patients with NASH and moderate to severe fibrosis. We have two other compounds with different mechanisms currently in two Phase 2 studies in patients with NASH and fibrosis - GS-9674, an FXR agonist, and GS-0976, an acetyl-CoA carboxylase (ACC) inhibitor. Pending demonstration of single agent efficacy and safety in these Phase 2 studies, we plan to initiate combination studies with the three agents in 2017.

Hematology/Oncology

In the hematology/oncology area, we continued to progress our product candidates through clinical trials. Idelalisib, a PI3K delta inhibitor, is in Phase 3 clinical trials for the treatment of patients with relapsed refractory chronic lymphocytic leukemia (CLL). We are also evaluating GS-5745, an investigational anti-MMP9 antibody, in a Phase 3 study for the treatment of gastric cancer.

Inflammation/Respiratory

In 2016, we closed on a license and collaboration agreement with Galapagos, a clinical-stage biotechnology company based in Belgium, for the development and commercialization of filgotinib, a JAK1 inhibitor being evaluated in Phase 3 trials for three inflammatory disease indications - rheumatoid arthritis, Crohn's disease and ulcerative colitis. In 2017, we also expect to initiate Phase 2 clinical trials evaluating filgotinib in combination with GS-9876, a Syk inhibitor, and GS-4059, a BTK inhibitor, for the potential treatment of rheumatoid arthritis.

Our Products

HIV

- **Descovy** is an oral formulation indicated in combination with other antiretroviral agents for the treatment of HIV-1 infection in adults and pediatric patients 12 years of age or older. Descovy is a fixed-dose combination of our antiretroviral medications, Emtriva® (emtricitabine) and TAF. Descovy was approved by FDA and the European Commission in April 2016.
- **Odefsey** is an oral formulation dosed once a day for the treatment of HIV-1 infection in certain patients. Odefsey is a fixed-dose combination of our antiretroviral medications, Emtriva and TAF, and rilpivirine marketed by Janssen Sciences Ireland UC (Janssen), one of the Janssen Pharmaceutical Companies of Johnson & Johnson. Odefsey represents the smallest pill of any single-tablet regimen for the treatment of HIV. Odefsey was approved by FDA in March 2016 and the European Commission in June 2016.
- **Genvoya** is an oral formulation dosed once a day for the treatment of HIV-1 infection in adults. Genvoya is a single-tablet regimen for the treatment of HIV and is a fixed-dose combination of our antiretroviral medicines, Vitekta® (elvitegravir), Tybost® (cobicistat), Emtriva and TAF.
- **Stribild®** (elvitegravir/cobicistat/emtricitabine/TDF) is an oral formulation dosed once a day for the treatment of HIV-1 infection in treatment-naive adults. Stribild is a single-tablet regimen for the treatment of HIV and is a fixed-dose combination of our antiretroviral medications, Vitekta, Tybost, Viread and Emtriva.

- **Complera®/Eviplera®** (emtricitabine/rilpivirine/TDF) is an oral formulation dosed once a day for the treatment of HIV-1 infection in adults. The product, marketed in the United States as Complera and in Europe as Eviplera, is a single-tablet regimen for the treatment of HIV and is a fixed-dose combination of our antiretroviral medications, Viread and Emtriva, and Janssen's rilpivirine.
- **Atripla®** (efavirenz/emtricitabine/TDF) is an oral formulation dosed once a day for the treatment of HIV infection in adults. Atripla is a single-tablet regimen for HIV intended as a stand-alone therapy or in combination with other antiretrovirals. It is a fixed-dose combination of our antiretroviral medications, Viread and Emtriva, and Bristol-Myers Squibb Company's (BMS's) efavirenz.
- **Truvada®** (emtricitabine/TDF) is an oral formulation dosed once a day as part of combination therapy to treat HIV infection in adults. It is a fixed-dose combination of our antiretroviral medications, Viread and Emtriva. FDA also approved Truvada, in combination with safer sex practices, to reduce the risk of sexually acquired HIV-1 infection in adults at high risk; a strategy called pre-exposure prophylaxis (PrEP).
- **Viread** is an oral formulation of a nucleotide analog reverse transcriptase inhibitor, dosed once a day as part of combination therapy to treat HIV infection in patients two years of age and older. The European Commission also approved the use of Viread in combination with other antiretroviral agents for the treatment of HIV-1-infected adolescent patients aged two to less than 18 years with nucleoside reverse transcriptase inhibitor resistance or toxicities precluding the use of first-line pediatric agents. Viread is also approved for the treatment of HBV.
- **Emtriva** is an oral formulation of a nucleoside analog reverse transcriptase inhibitor, dosed once a day as part of combination therapy to treat HIV infection in adults. In the United States and Europe, Emtriva is also available as an oral solution approved as part of combination therapy to treat HIV infection in children.
- **Tybost** is a pharmacokinetic enhancer dosed once a day that boosts blood levels of certain HIV medicines. Tybost is indicated as a boosting agent for the HIV protease inhibitors atazanavir and darunavir as part of antiretroviral combination therapy in adults with HIV-1 infection.
- **Vitekta** is an oral formulation of an integrase inhibitor, dosed once a day as part of combination therapy to treat HIV infection in adults without known mutations associated with resistance to elvitegravir, the active ingredient of Vitekta. Vitekta is indicated for use as part of HIV treatment regimens that include a ritonavir-boosted protease inhibitor.

Liver Diseases

- **Vemlidy** is an oral formulation of a once-daily treatment of TAF for adults with HBV infection with compensated liver disease. Vemlidy was approved by FDA in November 2016 and the European Commission in January 2017.
- **Epclusa** is an oral formulation of sofosbuvir and velpatasvir and the first pan-genotypic, single-tablet regimen for the treatment of adults with genotype 1-6 chronic infection. Epclusa is also the first single-tablet regimen approved for the treatment of patients with HCV genotype 2 and 3, without the need for ribavirin. Epclusa for 12 weeks was approved in patients without cirrhosis or with compensated cirrhosis (Child-Pugh A), and in combination with ribavirin for patients with decompensated cirrhosis (Child-Pugh B or C). Epclusa was approved by FDA in June 2016 and the European Commission in July 2016.
- **Harvoni** is an oral formulation of ledipasvir and sofosbuvir dosed once a day for the treatment of genotypes 1, 4, 5 and 6, HCV/HIV-1 co-infection, HCV genotype 1 and 4 liver transplant recipients, and genotype 1-infected patients with decompensated cirrhosis. In Europe, Harvoni is also indicated for certain patients with HCV genotype 4 infection, HCV genotype 3 infection with cirrhosis and/or prior treatment failure and those with HCV/HIV-1 co-infection.
- **Sovaldi** is an oral formulation of sofosbuvir dosed once a day for the treatment of HCV as a component of a combination antiviral treatment regimen. Sovaldi's efficacy has been established in patients with HCV genotypes 1, 2, 3 or 4 infection (in the United States and Europe) and genotypes 5 and 6 infection (in Europe), including those with hepatocellular carcinoma meeting Milan criteria (awaiting liver transplantation) and those with HCV/HIV-1 co-infection.
- **Viread** is an oral formulation of a nucleotide analog reverse transcriptase inhibitor, dosed once a day for the treatment of HBV in adults with compensated and decompensated liver disease. We licensed to GlaxoSmithKline Inc. (GSK) the rights to commercialize Viread for the treatment of HBV in China, Japan and Saudi Arabia. In 2012, the European Commission approved the use of Viread for the treatment of HBV infection in adolescent patients aged 12 to less than 18 years with compensated liver disease and evidence of immune active disease. Viread is also approved for the treatment of HIV infection.
- **Hepsera®** (adefovir dipivoxil) is an oral formulation of a nucleotide analog polymerase inhibitor, dosed once a day to treat HBV in patients 12 years of age and older. We licensed to GSK the rights to commercialize Hepsera for the treatment of HBV in Asia Pacific, Latin America and certain other territories.

Hematology/Oncology

- **Zydelig**® (idelalisib) is a first-in-class PI3K delta inhibitor for the treatment of certain blood cancers. In the United States, Zydelig is approved in combination with rituximab for patients with relapsed CLL for whom rituximab alone would be considered appropriate therapy and as monotherapy for patients with relapsed follicular B-cell non-Hodgkin lymphoma (FL) and small lymphocytic lymphoma (SLL) who have received at least two prior systemic therapies. In the European Union, Zydelig is approved for the treatment of CLL and FL.

Cardiovascular

- **Letairis**® (ambrisentan) is an oral formulation of an endothelin receptor antagonist (ERA) indicated for the treatment of pulmonary arterial hypertension (PAH) (WHO Group 1) in patients with WHO Class II or III symptoms to improve exercise capacity and delay clinical worsening. We sublicensed to GSK the rights to ambrisentan, marketed by GSK as Volibris® (ambrisentan), for PAH in territories outside of the United States.
- **Ranexa**® (ranolazine) is an extended-release tablet for the treatment of chronic angina. We have licensed to Menarini International Operations Luxembourg SA the rights to Ranexa in territories outside of the United States.
- **Lexiscan**® (regadenoson) injection is indicated for use as a pharmacologic stress agent in radionuclide myocardial perfusion imaging (MPI), a test that detects and characterizes coronary artery disease, in patients unable to undergo adequate exercise stress. Astellas US LLC (Astellas) has exclusive rights to manufacture and sell regadenoson under the name Lexiscan in the United States. Rapidscan Pharma Solutions, Inc. (RPS) holds the exclusive right to manufacture and sell regadenoson under the name Rapiscan® in Europe and certain territories outside the United States. We receive royalties from Astellas and RPS for sales in these territories.

Inflammation/Respiratory

- **Cayston**® (aztreonam for inhalation solution) is an inhaled antibiotic for the treatment of respiratory systems in cystic fibrosis patients seven years of age and older with *Pseudomonas aeruginosa (P. aeruginosa)*.
- **Tamiflu**® (oseltamivir phosphate) is an oral antiviral available in capsule form for the treatment and prevention of influenza A and B. Tamiflu is approved for the treatment of influenza in children and adults in more than 60 countries, including the United States, Japan and the European Union. Tamiflu is also approved for the prevention of influenza in children and adults in the United States, Japan and the European Union. We developed Tamiflu with F. Hoffmann-La Roche Ltd (together with Hoffmann-La Roche Inc., Roche). Roche has the exclusive right to manufacture and sell Tamiflu worldwide, subject to its obligation to pay us royalties based on a percentage of the net sales of Tamiflu.

Other

- **AmBisome**® (amphotericin B liposome for injection) is a proprietary liposomal formulation of amphotericin B, an antifungal agent to treat serious invasive fungal infections caused by various fungal species in adults. Our corporate partner, Astellas Pharma US, Inc., promotes and sells AmBisome in the United States and Canada, and we promote and sell AmBisome in Europe, Australia and New Zealand.
- **Macugen**® (pegaptanib sodium injection) is an intravitreal injection of an anti-angiogenic oligonucleotide for the treatment of neovascular age-related macular degeneration. Macugen was developed by Eyetech Inc. (Eyetech) using technology licensed from us and is now promoted in the United States by Valeant Pharmaceuticals, Inc. (Valeant), which acquired Eyetech in 2012. Valeant holds the exclusive rights to manufacture and sell Macugen in the United States, and Pfizer Inc. (Pfizer) holds the exclusive right to manufacture and sell Macugen in the rest of the world. We receive royalties from Valeant and Pfizer based on worldwide sales of Macugen.

Antiviral product sales, which include sales of our HIV and other antiviral products and our HCV products, were $27.7 billion, $30.2 billion and $22.8 billion in 2016, 2015 and 2014, respectively, and represented 91% of our total revenues in 2016, 93% of our total revenues in 2015 and 92% of our total revenues in 2014. Sales of our other products were $2.2 billion, $1.9 billion and $1.7 billion in 2016, 2015 and 2014, respectively, and represented 7% of our total revenues in 2016, 6% of our total revenues in 2015 and 7% of our total revenues in 2014. See Management's Discussion and Analysis of Financial Condition and Results of Operations included in Item 7 and Note 16, Segment Information of the Notes to Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K for additional information related to sales by product.

Commercialization and Distribution

We have U.S. and international commercial sales operations, with marketing subsidiaries in over 30 countries. Our products are marketed through our commercial teams and/or in conjunction with third-party distributors and corporate partners. Our commercial teams promote our products through direct field contact with physicians, hospitals, clinics and other healthcare providers. We generally grant our third-party distributors the exclusive right to promote our product in a territory for a specified period of time. Most of our agreements with these distributors provide for collaborative efforts between the distributor and Gilead in obtaining and maintaining regulatory approval for the product in the specified territory.

We sell and distribute Epclusa, Harvoni, Sovaldi, Vemlidy, Descovy, Odefsey, Truvada, Atripla, Stribild, Complera, Viread, Genvoya, Emtriva, Tybost, Vitekta, Ranexa, AmBisome, Zydelig and Hepsera in the United States exclusively through the wholesale channel. Our product sales to three large wholesalers, McKesson Corporation, AmerisourceBergen Corporation and Cardinal Health, Inc. each accounted for more than 10% of total revenues for each of the years ended December 31, 2016, 2015 and 2014. On a combined basis, in 2016, these wholesalers accounted for approximately 88% of our product sales in the United States and approximately 56% of our total worldwide revenues. Letairis and Cayston are distributed exclusively by specialty pharmacies. These specialty pharmacies dispense medications for complex or chronic conditions that require a high level of patient education and ongoing counseling. We sell and distribute Epclusa, Harvoni, Sovaldi, Vemlidy, Descovy, Odefsey, Truvada, Atripla, Stribild, Eviplera, Viread, Emtriva, Tybost, Vitekta, Genvoya, Ranexa, AmBisome, Zydelig and Hepsera in Europe and countries outside the United States where the product is approved, either through our commercial teams, third-party distributors or corporate partners.

U.S. Patient Access

We make it a priority to increase access to our medicines for people who can benefit from them, regardless of their ability to pay. In the United States, our U.S. patient support and assistance programs help patients and their families understand their access options. We assist patients with understanding insurance coverage, financial assistance options and eligibility for free treatment. We make our therapies accessible for uninsured individuals and those who need financial assistance. We also support programs for those unable to afford the co-payments associated with health insurance programs. Half of all patients taking our HIV medicines in the United States already receive them through federal and state programs at substantially discounted prices. We also have a long history of working with state AIDS Drug Assistance Programs (ADAPs) to provide lower pricing for our HIV medicines. The price freeze we instituted for ADAPs in 2008 was extended in 2013 through the end of 2017, providing important support to these critical programs as they evolve in the changing U.S. healthcare environment.

Developing World Access

Under our Gilead Access Program, established in 2003, certain of our products for HIV/AIDS, viral hepatitis and visceral leishmaniasis are available at substantially reduced prices in the developing world. Today, 10 million people are receiving Gilead HIV medicines in low- and middle-income countries. We have entered into a number of collaborations related to access to our products in the developing world, which include:

- **Licenses with Generic Manufacturers.** We have entered into non-exclusive license agreements with Indian generic manufacturers, granting them rights to produce and distribute generic versions of certain of our HIV, HCV and HBV products to low-income countries around the world, which include India and many countries in our Gilead Access Program.
- **Medicines Patent Pool (the MPP).** We entered into an agreement with the MPP, an organization that was established by the United Nations to increase global access to high-quality, low-cost antiretroviral therapy through the sharing of patents. We granted the MPP a non-exclusive license to identify generic pharmaceutical manufacturers in India who specialize in high-quality production of generic medicines and granted sublicenses to those Indian manufacturers to manufacture and distribute generic versions of our antiretrovirals in the developing world. Sublicensees through the MPP will be free to develop combination products and pediatric formulations of our HIV medicines.
- **Special Partnerships.** We work with national governments and local organizations to increase access to our HIV and HCV medicines and strengthen healthcare systems. For example, we have established an agreement with the National AIDS Program of Myanmar to donate a generic version of our Atripla to 2,000 people living with HIV in the country, as well as provide HIV educational activities and financial support to strengthen the country's health system. In Tanzania, we launched an HIV "test-and-treat" demonstration project with the Holy See's Good Samaritan Foundation. The program's goal is to enable screening of 120,000 patients for HIV and provide HIV therapy to 20,000 HIV-positive individuals over five years. In Egypt, we have agreed to provide Sovaldi and Harvoni to the Egyptian Ministry of Health at a significantly reduced price. In addition, in partnership with the Ministry of Health, we invest in local HCV medical education and prevention efforts, as well as screening and patient awareness initiatives. In Georgia, we established an agreement with the Ministry of Labor, Health and Social Affairs of Georgia to help eliminate HCV in the country. The

project aims to reduce the number of Georgians infected with HCV and lower the rate of new infections through universal screening, treatment, prevention and surveillance.

Competition

Our marketed products target a number of areas, including HIV, liver diseases, cardiovascular, hematology/oncology, inflammation/respiratory and other diseases. There are many commercially available products for the treatment of these diseases. We face significant competition from large global pharmaceutical and biotechnology companies, specialized pharmaceutical firms and generic drug manufacturers. Our products compete with other available products based primarily on efficacy, safety, tolerability, acceptance by doctors, ease of patient compliance, ease of use, price, insurance and other reimbursement coverage, distribution and marketing. As our products mature, private insurers and government payers often reduce the amount they will reimburse patients, which increases pressure on us to reduce prices. Further, as new branded or generic products are introduced into major markets, our ability to maintain pricing and market share may be affected.

Our HIV Products

The HIV landscape is becoming more competitive and complex as treatment trends continue to evolve. A growing number of HIV drugs are currently sold or are in advanced stages of clinical development. Competition from current and expected competitors may erode the revenues we receive from sales of our HIV products. Our HIV products compete primarily with products from ViiV Healthcare (ViiV), which markets fixed-dose combination products that compete with Descovy, Odefsey, Genvoya, Stribild, Complera/Eviplera, Atripla and Truvada. For example, two products marketed by ViiV, Tivicay (dolutegravir), an integrase inhibitor, and Triumeq (dolutegravir/abacavir/lamivudine), a single-tablet antiretroviral regimen, have adversely impacted sales of our HIV products. In addition, ViiV's lamivudine competes with emtricitabine, the active pharmaceutical ingredient of Emtriva and a component of Descovy, Odefsey, Genvoya, Stribild, Complera/Eviplera, Atripla and Truvada. For Tybost, we compete with ritonavir, marketed by AbbVie Inc. (AbbVie). Most of our HIV products contain TAF, TDF and/or emtrictabine, which belong to the nucleoside class of antiviral therapeutics. If the treatment paradigm for HIV changes, our market share would likely decline.

We also face competition from generic HIV products. Generic versions of lamivudine and Combivir (lamivudine and zidovudine) are available in the United States and certain other countries. Generic versions of Sustiva (efavirenz), a component of our Atripla, are now available in Canada and Europe and we anticipate competition from generic efavirenz in the United States in December 2017. We have observed some pricing pressure related to the Sustiva component of our Atripla sales. In addition, TDF, one of the active pharmaceutical ingredients in Stribild, Complera/Eviplera, Atripla and Truvada, and the main active pharmaceutical ingredient in Viread, is expected to face generic competition in the United States, the European Union and other countries in 2017. Because emtricitabine, the other active pharmaceutical ingredient of Truvada, faced generic competition in the European Union in 2016, Truvada is also expected to face generic competition in the European Union and other countries outside of the United States in 2017.

Our Liver Diseases Products

We continue to face increased competition in the HCV market. Our HCV products, Epclusa, Harvoni and Sovaldi, compete with Viekira Pak (ombitasvir, paritaprevir and ritonavir tablets co-packaged with dasabuvir tablets) and Viekira XR (dasabuvir, ombitasvir, paritaprevir and ritonavir) marketed by AbbVie, Zepatier (elbasvir and grazoprevir) marketed by Merck & Co. Inc. (Merck), Daklinza (daclastavir) marketed by BMS and Olysio (simeprevir) marketed by Janssen Therapeutics. We also expect new HCV products to be launched by competitors. Competition from current and expected competitors may negatively impact our ability to maintain pricing and our HCV market share. We expect pricing pressure in the HCV market to continue.

Our HBV products, Vemlidy, Viread and Hepsera, face competition from existing and expected therapies for treating patients with HBV. Our HBV products face competition from Baraclude (entecavir), an oral nucleoside analog marketed by BMS, as well as generic entecavir. Our HBV products also compete with Tyzeka/Sebivo (telbivudine), an oral nucleoside analog marketed by Novartis Pharmaceuticals Corporation (Novartis).

Our Cardiovascular Products

Letairis competes with Tracleer (bosentan) and Opsumit (macitentan) marketed by Actelion Pharmaceuticals US, Inc. and also with Adcirca (tadalafil) marketed by United Therapeutics Corporation and Pfizer.

Ranexa competes predominantly with generic compounds from three distinct classes of drugs for the treatment of chronic angina in the United States, including generic and/or branded beta-blockers, calcium channel blockers and long-acting nitrates. In addition, surgical treatments and interventions such as coronary artery bypass grafting and percutaneous coronary intervention can be another option for angina patients, which may be perceived by healthcare practitioners as preferred methods to treat the cardiovascular disease that underlies and causes angina.

There are numerous marketed generic and/or branded pharmacologic stress agents that compete with Lexiscan.

Our Hematology/Oncology Products

Zydelig competes with Imbruvica (ibrutinib)? marketed by Pharmacyclics, Inc., Gazyva (obinutuzumab) marketed by Genentech (a member of the Roche Group) and Treanda (bendamustine hydrochloride) marketed by Cephalon, Inc.

Our Inflammation/Respiratory Products

Cayston competes primarily with Tobi (tobramycin inhalation solution), an inhaled medication marketed by Novartis for the treatment of cystic fibrosis patients whose lungs contain P. aeruginosa, a bacterial infection.

Tamiflu competes with Relenza (zanamivir), an influenza neuraminidase inhibitor marketed by GSK, and products sold by generic competitors.

Our Other Products

AmBisome competes with Vfend (voriconazole) marketed by Pfizer and caspofungin, a product developed by Merck that is marketed as Cancidas in the United States and as Caspofungin elsewhere. AmBisome also competes with other lipid-based amphotericin B products, including Abelcet (amphotericin B lipid complex injection), sold by Enzon Pharmaceuticals, Inc. in the United States, Canada and Japan and by Zeneus Pharma Ltd. in Europe; Amphotec (amphotericin B cholesteryl sulfate complex for injection), sold by Three Rivers Pharmaceuticals, LLC worldwide; and Anfogen (amphotericin B liposomal), sold by Genpharma, S.A. in Argentina. BMS and numerous generic manufacturers sell conventional amphotericin B, which also competes with AmBisome. In addition, we are aware of at least three lipid formulations that claim similarity to AmBisome becoming available outside of the United States. These formulations may reduce market demand for AmBisome. Furthermore, the manufacture of lipid formulations of amphotericin B is very complex, and if any of these formulations are found to be unsafe, sales of AmBisome may be negatively impacted by association.

In addition, a number of companies are pursuing the development of technologies which are competitive with our existing products or research programs. These competing companies include specialized pharmaceutical firms and large pharmaceutical companies acting either independently or together with other pharmaceutical companies. Furthermore, academic institutions, government agencies and other public and private organizations conducting research may seek patent protection and may establish collaborative arrangements for competitive products and programs. If any of these competitors gain market share on our products, it could adversely affect our results of operations and stock price.

Collaborative Relationships

As part of our business strategy, we establish collaborations with other companies, universities and medical research institutions to assist in the clinical development and/or commercialization of certain of our products and product candidates and to provide support for our research programs. We also evaluate opportunities for acquiring products or rights to products and technologies that are complementary to our business from other companies, universities and medical research institutions. For more information regarding certain of these relationships, including their ongoing financial and accounting impact on our business, see Note 10, Collaborative Arrangements of the Notes to Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

Commercial Collaborations

Although we currently have a number of collaborations with corporate partners for the manufacture, sale, distribution and/or marketing of our products in various territories worldwide, the following commercial collaborations are those that are most significant to us from a financial statement perspective and where significant ongoing collaboration activity exists.

- **BMS**

  North America

  In 2004, we entered into a collaboration arrangement with BMS to develop and commercialize a single-tablet regimen containing our Truvada and BMS's Sustiva (efavirenz) in the United States. This combination was approved for use in the United States in 2006 and is sold under the brand name Atripla. We and BMS structured this collaboration as a joint venture that operates as a limited liability company named Bristol-Myers Squibb & Gilead Sciences, LLC, which we consolidate. We and BMS granted royalty-free sublicenses to the joint venture for the use of our respective company owned technologies and, in return, were granted a license by the joint venture to use any intellectual property that results from the collaboration. In 2006, we and BMS amended the joint venture's collaboration agreement to allow the joint venture to sell Atripla in Canada. The economic interests of the joint venture held by us and BMS (including share of revenues and out-of-pocket expenses) are based on the portion of the net selling price of Atripla attributable to efavirenz and Truvada. Since the net selling price for Truvada may change over time relative to the net selling price of efavirenz, both our and BMS's respective economic interests in the joint venture may vary annually.

We and BMS shared marketing and sales efforts. Starting in the second quarter of 2011, except for a limited number of activities that are jointly managed, the parties no longer coordinate detailing and promotional activities in the United States, and the parties have reduced their joint promotional efforts since we launched Complera in August 2011 and Stribild in August 2012. The parties continue to collaborate on activities such as manufacturing, regulatory, compliance and pharmacovigilance. The daily operations of the joint venture are governed by several joint committees formed by both BMS and Gilead. We are responsible for accounting, financial reporting, tax reporting, manufacturing and product distribution for the joint venture. Both parties provide their respective bulk active pharmaceutical ingredients to the joint venture at their approximate market value. The agreement will continue until terminated by the mutual agreement of the parties. In addition, either party may terminate the other party's participation in the collaboration within 30 days after the launch of at least one generic version of such other party's single agent products (or the double agent products). The terminating party then has the right to continue to sell Atripla and become the continuing party, but will be obligated to pay the terminated party certain royalties for a three-year period following the effective date of the termination. The loss of exclusivity in the United States for Sustiva is expected in December 2017.

As of December 31, 2016 and 2015, the joint venture held efavirenz active pharmaceutical ingredient which it purchased from BMS at BMS's estimated net selling price of efavirenz in the U.S. market. These amounts were primarily included in Inventories on our Consolidated Balance Sheets as of December 31, 2016 and 2015.

Europe

In 2007, Gilead Sciences Ireland UC, our wholly-owned subsidiary, and BMS entered into a collaboration agreement under which we and BMS commercialize and distribute Atripla in the European Union, Iceland, Liechtenstein, Norway and Switzerland (collectively, the European Territory). The parties formed a limited liability company which we consolidate, to manufacture Atripla for distribution in the European Territory using efavirenz that it purchases from BMS at BMS's estimated net selling price of efavirenz in the European Territory. We are responsible for manufacturing, product distribution, inventory management and warehousing. Through our local subsidiaries, we have primary responsibility for order fulfillment, collection of receivables, customer relations and handling of sales returns in all the territories where we and BMS promote Atripla. In general, the parties share revenues and out-of-pocket expenses in proportion to the net selling prices of the components of Atripla, Truvada and efavirenz.

Starting in 2012, except for a limited number of activities that are jointly managed, the parties no longer coordinate detailing and promotional activities in the European Territory. We are responsible for accounting, financial reporting and tax reporting for the collaboration. As of December 31, 2016 and December 31, 2015, efavirenz purchased from BMS at BMS's estimated net selling price of efavirenz in the European Territory is primarily included in Inventories on our Consolidated Balance Sheets.

The parties also formed a limited liability company to hold the marketing authorization for Atripla in the European Territory. We have primary responsibility for regulatory activities. In the major market countries, both parties have agreed to independently continue to use commercially reasonable efforts to promote Atripla.

The agreement will terminate upon the expiration of the last-to-expire patent which affords market exclusivity to Atripla or one of its components in the European Territory. In addition, since December 31, 2013, either party may terminate the agreement for any reason and such termination will be effective two calendar quarters after notice of termination. The non-terminating party has the right to continue to sell Atripla and become the continuing party, but will be obligated to pay the terminating party certain royalties for a three-year period following the effective date of the termination. In the event the continuing party decides not to sell Atripla, the effective date of the termination will be the date Atripla is withdrawn in each country or the date on which a third party assumes distribution of Atripla, whichever is earlier.

- **Janssen**

In 2009, we entered into a collaboration agreement with Janssen to develop and commercialize a fixed-dose combination of our Truvada and Janssen's rilpivirine. The agreement was amended in 2011, 2013 and 2014. The combination was approved in the United States and European Union in 2011 and is sold under the brand name Complera in the United States and Eviplera in the European Union. The 2014 amendment expanded the collaboration to include another single-tablet regimen containing Janssen's rilpivirine and our emtricitabine and tenofovir alafenamide (Odefsey). Under the agreement, Janssen granted us an exclusive license to Complera/Eviplera and Odefsey worldwide but has the right to distribute both combination products in 18 countries including Mexico, Russia and Japan. Neither party is restricted from combining its drugs with any other drug products except those which are similar to the components of Complera/Eviplera and Odefsey.

We are responsible for manufacturing Complera/Eviplera and Odefsey and have the lead role in registration, distribution and commercialization of both products except in the countries where Janssen distributes. Janssen has exercised a right to co-detail the combination product in some of the countries where Gilead is the selling party. The selling party sets the price of the products and the parties share revenues based on the ratio of the net selling prices of the parties' component(s), subject to certain restrictions and adjustments. We retain a specified percentage of Janssen's share of revenues, up to 30% in major markets.

Either party may terminate the collaboration agreement with respect to a product and a country if the product is withdrawn from the market in such country or with respect to a product in all countries if the other party materially breaches the agreement with respect to a product. The agreement and the parties' obligation to share revenues will expire on a product-by-product and country-by-country basis as Janssen patents providing exclusivity for the product expire or, if later, on the tenth anniversary of the commercial launch for such product. We may terminate the agreement without cause with respect to the countries where we sell the products in which case Janssen has the right to become the selling party for such country if the product has launched but has been on the market for fewer than 10 years.

- **Japan Tobacco**

  In 2005, Japan Tobacco Inc. (Japan Tobacco) granted us exclusive rights to develop and commercialize elvitegravir, a novel HIV integrase inhibitor, in all countries of the world, excluding Japan, where Japan Tobacco retained such rights. Under the agreement, we are responsible for seeking regulatory approval in our territories and are required to use diligent efforts to commercialize elvitegravir for the treatment of HIV infection. We bear all costs and expenses associated with such commercialization efforts.

  We received approval of Stribild (an elvitegravir-containing product) from FDA in August 2012 and from the European Commission in May 2013. We received approval of Genvoya (an elvitegravir-containing product) from FDA and the European Commission in November 2015.

  The agreement and our obligation to pay royalties to Japan Tobacco will terminate on a product-by-product basis as patents providing exclusivity for the product expire or, if later, on the tenth anniversary of commercial launch for such product. We may terminate the agreement for any reason in which case the license granted by Japan Tobacco to us would terminate. Either party may terminate the agreement in response to a material breach by the other party.

Research Collaborations

We have a number of collaborations with partners for the research and development (R&D) of certain compounds and drug candidates. None of our research collaborations are significant to us from a financial statement perspective.

Research and Development

Our R&D philosophy and strategy is to develop best-in-class drugs that improve safety or efficacy for unmet medical needs. We intend to continue committing significant resources to internal R&D opportunities and external business development activity.

Our product development efforts cover a wide range of medical conditions, including HIV/AIDS, liver diseases such as HCV and HBV, hematology/oncology, cardiovascular and inflammation/respiratory diseases. We have research scientists in Foster City, Fremont, San Dimas and Oceanside, California; Seattle, Washington; and Alberta, Canada engaged in the discovery and development of new molecules and technologies that we hope will lead to the approval of new medicines addressing unmet needs.

The development of our product candidates is subject to various risks and uncertainties. These risks and uncertainties include our ability to enroll patients in clinical trials, the possibility of unfavorable results of our clinical trials, the need to modify or delay our clinical trials or to perform additional trials and the risk of failing to obtain regulatory approvals. As a result, our product candidates may never be successfully commercialized. Drug development is inherently risky and many product candidates fail during the drug development process.

Below is a summary of our key product candidates and their corresponding current stages of development.

Product Candidates for the Treatment of HIV

Product Candidates	Description
Products in Phase 3	
Bictegravir/F/TAF	A single-tablet regimen of bictegravir, a non-boosted integrase inhibitor, and F/TAF is being evaluated for the treatment of HIV infection.
Descovy	Descovy is being evaluated for PrEP.
Product in Phase 1	
GS-9620	GS-9620, a TLR-7 agonist, is being evaluated for the treatment of HIV infection.

Product Candidates for the Treatment of Liver Diseases

Product Candidates	Description
Market Applications Pending	
Single-tablet regimen of sofosbuvir, velpatasvir and voxilaprevir	A single-tablet regimen of sofosbuvir, velpatasvir and voxilaprevir, a pan-genotypic NS3 protease inhibitor, is being evaluated for the treatment of HCV.
Product in Phase 3	
Selonsertib	Selonsertib, an ASK-1 inhibitor, is being evaluated for the treatment of NASH.
Products in Phase 2	
GS-9620	GS-9620, a TLR-7 agonist, is being evaluated for the treatment of HBV.
Selonsertib	Selonsertib, an ASK-1 inhibitor, is being evaluated for the treatment of alcoholic hepatitis.
GS-9674	GS-9674, a FXR agonist, is being evaluated for the treatment of NASH, primary biliary cirrhosis and primary sclerosing cholangitis.
GS-0976	GS-0976, an ACC inhibitor, is being evaluated for the treatment of NASH.

Product Candidates for the Treatment of Hematology/Oncology

Product Candidates	Description
Products in Phase 3	
Idelalisib	Idelalisib, a PI3K delta inhibitor, is being evaluated for the treatment of relapsed refractory CLL.
GS-5745	GS-5745, a MMP9 mAb inhibitor, is being evaluated for the treatment of gastric cancer.
Products in Phase 2	
Entospletinib	Entospletinib, a Syk inhibitor, is being evaluated for the treatment of hematological malignancies and acute myeloid leukemia.
GS-4059	GS-4059, a BTK inhibitor, is being evaluated for the treatment of B-cell malignancies.
Products in Phase 1	
GS-5745	GS-5745, a MMP9 mAb inhibitor, is being evaluated for the treatment of solid tumors.
GS-5829	GS-5829, a BET inhibitor, is being evaluated for the treatment of solid tumors.

Product Candidates for the Treatment of Inflammation/Respiratory Diseases

Product Candidates	Description
Product in Phase 3	
Filgotinib	Filgotinib, a JAK1 inhibitor, is being evaluated for the treatment of rheumatoid arthritis, Crohn's disease and ulcerative colitis.
Products in Phase 2	
Filgotinib	Filgotinib, a JAK1 inhibitor, is being evaluated for the treatment of various inflammatory diseases.
Entospletinib	Entospletinib, a Syk inhibitor, is being evaluated for the treatment of chronic graft versus host disease.
Presatovir	Presatovir, a fusion inhibitor, is being evaluated for the treatment of respiratory syncytial virus.
GS-5745	GS-5745, a MMP9 mAb inhibitor, is being evaluated for the treatment of cystic fibrosis and rheumatoid arthritis.
GS-9876	GS-9876, a Syk inhibitor, is being evaluated for the treatment of rheumatoid arthritis.

Other Product Candidates

Product Candidates	Description
Product in Phase 2	
GS-5734	GS-5734, a Nuc inhibitor, is being evaluated for the treatment of Ebola virus infection.

In total, our R&D expenses were $5.1 billion for 2016, $3.0 billion for 2015 and $2.9 billion for 2014. R&D expenses increased 69% in 2016 compared to 2015, primarily due to the overall progression of clinical studies, including ongoing milestone payments, our purchase of an FDA priority review voucher, up-front collaboration expenses related to our license and collaboration agreement with Galapagos and our purchase of Nimbus Apollo, Inc. (Nimbus). We also recorded in-process R&D impairment charges related to momelotinib and simtuzumab in 2016.

In addition to our internal discovery and clinical development programs, we seek to add to our portfolio of products through product acquisitions, licenses and collaborations.

In January 2016, we closed on a license and collaboration agreement with Galapagos, a clinical-stage biotechnology company based in Belgium, for the development and commercialization of filgotinib, a JAK1-selective inhibitor being investigated for inflammatory disease indications. Filgotinib is in Phase 3 clinical trials for the potential treatment of rheumatoid arthritis, Crohn's disease and ulcerative colitis.

In May 2016, we acquired Nimbus, a privately held company, and its ACC inhibitor program, which is being evaluated for the potential treatment of NASH, hepatocellular carcinoma and other diseases.

Patents and Proprietary Rights

U.S. and European Patent Expiration

We have a number of U.S. and foreign patents, patent applications and rights to patents related to our compounds, products and technology, but we cannot be certain that issued patents will be enforceable or provide adequate protection or that pending patent applications will result in issued patents.

The following table shows the estimated expiration dates (including Patent Term Extension, Supplementary Protection Certificates and/or Pediatric exclusivity where granted) in the United States and Europe for the primary (typically compound) patents for our Phase 3 product candidates. Patents do not cover the ranolazine compound, the active ingredient of Ranexa. Instead, when it was discovered that only a sustained-release formulation of ranolazine would achieve therapeutic plasma levels, patents were obtained on those formulations and the characteristic plasma levels they achieve. For our product candidates that are single-tablet regimens, the estimated patent expiration date provided corresponds to the latest expiring compound patent for one of the active ingredients in the single-tablet regimen.

Phase 3 Product Candidates	**Patent Expiration**	
Product Candidate for the Treatment of HIV	**U.S.**	**E.U.**
Single-tablet regimen of bictegravir and F/TAF	2033	2033
Product Candidates for the Treatment of Liver Diseases		
Single-tablet regimen of sofosbuvir, velpatasvir and voxilaprevir for the treatment of HCV	2033	2033
Selonsertib for the treatment of NASH	2033	2033
Product Candidates for the Treatment of Hematology/Oncology		
Idelalisib for the treatment of relapsed refractory CLL	2025	2025
GS-5745 for the treatment of gastric cancer	2031	(2031)
Product Candidates for the Treatment of Inflammation Diseases		
Filgotinib for the treatment of rheumatoid arthritis	2030	(2030)
Filgotinib for the treatment of Crohn’s disease	2030	(2030)
Filgotinib for the treatment of ulcerative colitis	2030	(2030)

Dates in parentheses reflect the estimated expiration date of patents which may issue from currently pending applications. The estimated expiration dates do not include any potential additional exclusivity (e.g., patent term extension, supplementary protection certificates or pediatric exclusivity) that has not yet been granted.

The following table shows the actual or estimated expiration dates (including Patent Term Extension, Supplementary Protection Certificates and/or Pediatric exclusivity where granted) in the United States and Europe for the primary (typically compound) patents for our marketed products. For our products that are fixed-dose combinations or single-tablet regimens (e.g., Truvada, Atripla, Complera/Eviplera, Stribild, Genvoya, Odefsey and Descovy), the estimated patent expiration dates provided correspond to the latest expiring compound patent for one of the active ingredients in the single-tablet regimen.

Products	**Patent Expiration**	
	U.S.	**E.U.**
Hepsera	2014	2016
AmBisome	2016	2008
Macugen	2017	2017
Tamiflu	2017	2016
Letairis	2018 *	2020
Viread	2018 **	2017
Ranexa	2019 ***	2023
Atripla	2021	2017
Cayston	2021	2021
Emtriva	2021	2016
Truvada	2021	2017
Lexiscan	2022	2025
Complera/Eviplera	2022	2022
Vitekta	2023	2028
Zydelig	2025	(2025)
Sovaldi	2029	2028
Stribild	2029	2028
Genvoya	2029	2028
Tybost	2029	2027
Harvoni	2030	2030
Descovy	2022	2021
Odefsey	2025	2022
Epclusa	2032	2032
Vemlidy	2022	2021

Dates in parentheses reflect the estimated expiration date of patents which may issue from currently pending applications. The estimated expiration dates do not include any potential additional exclusivity (e.g., patent term extension, supplementary protection certificates or pediatric exclusivity) that has not yet been granted.

* In 2017, Gilead and Watson Laboratories, Inc. (Watson) reached an agreement to settlement the patent litigation related to Letairis.

** In 2013, Gilead and Teva Pharmaceuticals (Teva) reached an agreement in principle to settle the ongoing patent litigation concerning the four patents that protect tenofovir disoproxil fumarate in our Viread, Truvada and Atripla products. Under the agreement, Teva will be allowed to launch a generic version of Viread on December 15, 2017.

*** In 2013, Gilead and Lupin Limited (Lupin) reached an agreement to settle the patent litigation prior to issuance of the court's decision. Under the agreement, Lupin will be allowed to launch a generic version of Ranexa on February 27, 2019.

Patent Protection and Certain Challenges

Patents and other proprietary rights are very important to our business. If we have a properly drafted and enforceable patent, it can be more difficult for our competitors to use our technology to create competitive products and more difficult for our competitors to obtain a patent that prevents us from using technology we create. As part of our business strategy, we actively seek patent protection both in the United States and internationally and file additional patent applications, when appropriate, to cover improvements in our compounds, products and technology.

Patents covering certain of the active pharmaceutical ingredients (API) of Truvada, Atripla, Stribild, Complera/Eviplera, Genvoya, Odefsey, Descovy, Vitekta, Emtriva, Letairis, and Hepsera are held by third parties. We acquired exclusive rights to these patents in the agreements we have

with these parties. Patents do not cover the ranolazine compound, the active ingredient

of Ranexa. Instead, when it was discovered that only a sustained-release formulation of ranolazine would achieve therapeutic plasma levels, patents were obtained on those formulations and the characteristic plasma levels they achieve. Patents do not cover the active ingredients in AmBisome.

We may obtain patents for certain products many years before marketing approval is obtained for those products. Because patents have a limited life, which may begin to run prior to the commercial sale of the related product, the commercial value of the patent may be limited. However, we may be able to apply for patent term extensions or supplementary protection certificates in some countries. For example, extensions for the patents or supplementary protection certificates on many of our products have been granted in the United States and in a number of European countries, compensating in part for delays in obtaining marketing approval. Similar patent term extensions may be available for other products that we are developing, but we cannot be certain we will obtain them in some countries.

It is also important that we do not infringe the valid patents of third parties. If we infringe the valid patents of third parties, we may be prevented from commercializing products or may be required to obtain licenses from these third parties. We may not be able to obtain alternative technologies or any required license on reasonable terms or at all. If we fail to obtain these licenses or alternative technologies, we may be unable to develop or commercialize some or all of our products. For example, we are aware of a body of patents that may relate to our operation of Letairis Education and Access Program (LEAP), our restricted distribution program designed to support Letairis and we are aware of patents and patent applications owned by other parties that may claim to cover the use of sofosbuvir and the use of the combination of sofosbuvir and ledipasvir.

Because patent applications are confidential for a period of time until a patent is issued, we may not know if our competitors have filed patent applications for technology covered by our pending applications or if we were the first to invent or first to file an application directed toward the technology that is the subject of our patent applications. Competitors may have filed patent applications or received patents and may obtain additional patents and proprietary rights that block or compete with our products. In addition, if competitors file patent applications covering our technology, we may have to participate in interference/derivation proceedings or litigation to determine the right to a patent. Litigation and interference/derivation proceedings are unpredictable and expensive, such that, even if we are ultimately successful, our results of operations may be adversely affected by such events.

Patents relating to pharmaceutical, biopharmaceutical and biotechnology products, compounds and processes such as those that cover our existing compounds, products and processes and those that we will likely file in the future, do not always provide complete or adequate protection. Future litigation or other proceedings regarding the enforcement or validity of our existing patents or any future patents could result in the invalidation of our patents or substantially reduce their protection. From time to time, certain individuals or entities may challenge our patents.

Our pending patent applications and the patent applications filed by our collaborative partners may not result in the issuance of any patents or may result in patents that do not provide adequate protection. As a result, we may not be able to prevent third parties from developing compounds or products that are closely related to those which we have developed or are developing. In addition, certain countries in South America, Africa and Asia, including Brazil and China, do not provide effective enforcement of our patents, and third-party manufacturers may be able to sell generic versions of our products in those countries.

Litigation Related to Sofosbuvir

In January 2012, we acquired Pharmasset, Inc. (Pharmasset). Through the acquisition, we acquired sofosbuvir, a nucleotide analog that acts to inhibit the replication of the HCV. In December 2013, we received U.S. FDA approval of sofosbuvir, now known commercially as Sovaldi. In October 2014, we also received approval of the fixed-dose combination of ledipasvir and sofosbuvir, now known commercially as Harvoni. In June 2016, we received approval of the fixed-dose combination of sofosbuvir and velpatasvir, now known commercially as Epclusa. We have received a number of contractual and intellectual property claims regarding sofosbuvir. While we have carefully considered these claims both prior to and following the acquisition and believe they are without merit, we cannot predict the ultimate outcome of such claims or range of loss.

We own patents and patent applications that claim sofosbuvir (Sovaldi) as a chemical entity and its metabolites and the fixed-dose combinations of ledipasvir and sofosbuvir (Harvoni) and sofosbuvir and velpatasvir (Epclusa). Third parties may have, or may obtain rights to, patents that allegedly could be used to prevent or attempt to prevent us from commercializing Epclusa, Harvoni or Sovaldi. For example, we are aware of patents and patent applications owned by other parties that have been or may in the future be alleged by such parties to cover the use of Epclusa, Harvoni and Sovaldi. We cannot predict the ultimate outcome of intellectual property claims related to Epclusa, Harvoni or Sovaldi. We have spent, and will continue to spend, significant resources defending against these claims.

If third parties successfully obtain valid and enforceable patents, and successfully prove infringement of those patents by Epclusa, Harvoni and/or Sovaldi, we could be prevented from selling these products unless we were able to obtain a license under such patents. Such a license may not be available on commercially reasonable terms or at all.

Interference Proceedings and Litigation with Idenix Pharmaceuticals, Inc. (Idenix), Universita Degli Studi di Cagliari (UDSG), Centre National de la Recherche Scientifique and L'Universite Montpellier II

In February 2012, we received notice that the U.S. Patent and Trademark Office (USPTO) had declared Interference No. 105,871 (First Idenix Interference) between our U.S. Patent No. 7,429,572 (the '572 patent) and Idenix's pending U.S. Patent Application No. 12/131,868 to determine who was the first to invent certain nucleoside compounds. In January 2014, the USPTO Patent Trial and Appeal Board (PTAB) determined that Pharmasset and not Idenix was the first to invent the compounds. Idenix has appealed the PTAB's decisions to the U.S. District Court for the District of Delaware, which has stayed that appeal pending the outcome of the appeal of the interference involving Idenix's U.S. Patent No. 7,608,600 (the '600 patent) as described below.

In December 2013, after receiving our request to do so, the USPTO declared Interference No. 105,981 (Second Idenix Interference) between our pending U.S. Patent Application No. 11/854,218 and Idenix's '600 patent. The '600 patent includes claims directed to methods of treating HCV with nucleoside compounds. In March 2015, the PTAB determined that Pharmasset and not Idenix was the first to invent the claimed methods of treating HCV. Idenix appealed this decision in both the U.S. District Court for the District of Delaware and the U.S. Court of Appeal for the Federal Circuit (CAFC). The CAFC heard oral arguments in September 2016, and we are awaiting its decision. We filed a motion to dismiss the appeal in Delaware, and the court has stayed the appeal relating to the Second Idenix Interference.

We believe that the Idenix claims involved in the First and Second Idenix Interferences, and similar U.S. and foreign patents claiming the same compounds, metabolites and uses thereof, are invalid. As a result, we filed an Impeachment Action in the Federal Court of Canada to invalidate Idenix Canadian Patent No. 2,490,191 (the '191 patent), which is the Canadian patent that corresponds to the '600 patent. Idenix asserted that the commercialization of Sovaldi in Canada will infringe its '191 patent and that our Canadian Patent No. 2,527,657, corresponding to our '572 patent, is invalid. In November 2015, the Canadian court held that Idenix's patent is invalid and that our patent is valid. Idenix appealed the decision to the Canadian Federal Court of Appeal in November 2015. The appeal hearing was held in January 2017 and we are awaiting the decision.

We filed a similar legal action in Norway in the Oslo District Court seeking to invalidate Idenix's Norwegian patent corresponding to the '600 patent. In September 2013, Idenix filed an invalidation action in the Norwegian proceedings against our Norwegian Patent No. 333700, which corresponds to the '572 patent. In March 2014, the Norwegian court found all claims in the Idenix Norwegian patent to be invalid and upheld the validity of all claims in our patent. Idenix appealed the decision to the Norwegian Court of Appeal. In April 2016, the Court of Appeal issued its decision invalidating the Idenix patent and upholding our patent. Idenix has not filed a further appeal.

In January 2013, we filed a legal action in the Federal Court of Australia seeking to invalidate Idenix's Australian patent corresponding to the '600 patent. In April 2013, Idenix asserted that the commercialization of Sovaldi in Australia infringes its Australian patent corresponding to the '600 patent. In March 2016, the Australian court revoked Idenix's Australian patent. Idenix has appealed this decision. The appeal hearing was held in November 2016 and we are awaiting the decision.

In March 2014, the European Patent Office (EPO) granted Idenix European Patent No. 1 523 489 (the '489 patent), which corresponds to the '600 patent. The same day that the '489 patent was granted, we filed an opposition with the EPO seeking to revoke the '489 patent. An opposition hearing was held in February 2016, and the EPO ruled in our favor and revoked the '489 patent. Idenix has appealed. In March 2014, Idenix also initiated infringement proceedings against us in the United Kingdom (UK), Germany and France alleging that the commercialization of Sovaldi would infringe the UK, German and French counterparts of the '489 patent. A trial was held in the UK in October 2014. In December 2014, the High Court of Justice of England and Wales (UK Court) invalidated all challenged claims of the '489 patent on multiple grounds. Idenix appealed. In November 2016, the appeals court affirmed the UK Court's decision invalidating Idenix's patent. In March 2015, the German court in Düsseldorf determined that the Idenix patent was highly likely to be invalid and stayed the infringement proceedings pending the outcome of the opposition hearing held by the EPO in February 2016. Idenix has not appealed this decision of the German court staying the proceedings. Upon Idenix's request, the French proceedings have been stayed. Idenix has not been awarded patents corresponding to the '600 patent in Japan or China.

In December 2013, Idenix, Universita Degli Studi di Cagliari (UDSG), Centre National de la Recherche Scientifique and L'Université Montpellier II sued us in U.S. District Court for the District of Delaware alleging that the commercialization of sofosbuvir will infringe the '600 patent and that an interference exists between the '600 patent and our U.S. Patent No. 8,415,322. Also in December 2013, Idenix and UDSG sued us in the U.S. District Court for the District of Massachusetts alleging that the commercialization of sofosbuvir will infringe U.S. Patent Nos. 6,914,054 (the '054 patent) and 7,608,597 (the '597 patent). In June 2014, the court transferred the Massachusetts litigation to the U.S. District Court for the District of Delaware. Idenix was acquired by Merck & Co. Inc. (Merck) in August 2014.

Prior to trial in December 2016, Idenix committed to give us a covenant not to sue with respect to any claims arising out of the '054 patent related to sofosbuvir and withdrew that patent from the trial. In addition, Idenix declined to litigate the '600 patent infringement action at trial in light of the appeal currently pending at the CAFC. In January 2017, the District Court stayed Idenix's infringement claim on the '600 patent pending the outcome of the appeal of the interference decision on that patent, described

above. A jury trial was held in December 2016 on the remaining ‘597 patent. In December 2016, the jury found that we willfully infringed the asserted claims of the ‘597 patent and awarded Idenix $2.54 billion in past damages. The parties will file post-trial motions and briefings during the first quarter of 2017, and we expect the judge to rule in the third or fourth quarter of 2017. Once the judge has issued these rulings, the case will move to the CAFC.

Although we cannot predict with certainty the ultimate outcome of this litigation, we believe the jury verdict to be in error, and that errors were also made by the court with respect to certain rulings made before and during trial. We are confident in the merits of our case and will vigorously pursue this position in post-trial motions and on appeal. We expect that our arguments in the forthcoming post-trial motions and on appeal will focus on one or more of the arguments we made to the judge and jury, those being (i) when properly construed, Gilead does not infringe the claims of the ‘597 patent, (ii) the patent is invalid for failure to properly describe the claimed invention and (iii) the patent is invalid because it does not enable one of skill in the art to practice the claimed invention.

For further information, please see Note 12, Commitments and Contingencies - Legal Proceedings of the Notes to Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

If the jury’s verdict is upheld on appeal, the amount we could be required to pay could be material. The timing and magnitude of the amount of any such payment could have a material adverse impact on our results of operations.

Litigation with Merck

In August 2013, Merck contacted us requesting that we pay royalties on the sales of sofosbuvir and obtain a license to U.S. Patent No. 7,105,499 (the ’499 patent) and U.S. Patent No. 8,481,712 (the ’712 patent), which it co-owns with Ionis Pharmaceuticals, Inc. The ’499 and ’712 patents cover compounds which do not include, but may relate to, sofosbuvir. We filed a lawsuit in August 2013 in the U.S. District Court for the Northern District of California seeking a declaratory judgment that the Merck patents are invalid and not infringed. During patent prosecution, Merck amended its patent application in an attempt to cover compounds related to sofosbuvir. Initially, in March 2016, a jury determined that we had not established that Merck’s patents are invalid for lack of written description or lack of enablement and awarded Merck $200 million in damages. However, in June 2016, the court ruled in Gilead’s favor on our defense of unclean hands and determined that Merck may not recover any damages from us for the ’499 and ’712 patents. The judge has determined that Merck is required to pay our attorney’s fees due to the exceptional nature of this case. The amount of fees owed to us by Merck is yet to be determined by the court.

Merck has filed a notice of appeal to the Court of Appeals for the Federal Circuit regarding the court’s decision on our defense of unclean hands. We appealed the issue relating to the invalidity of Merck’s patent. If the decision on our defense of unclean hands is reversed on appeal and Merck’s patent is upheld, we may be required to pay damages and a royalty on sales of sofosbuvir-containing products following the appeal. In that event, the judge has indicated that she will determine the amount of the royalty, if necessary, at the conclusion of any appeal in this case.

Litigation with the University of Minnesota

The University of Minnesota (the University) has obtained Patent No. 8,815,830 (the ’830 patent), which purports to broadly cover nucleosides with antiviral and anticancer activity. In August 2016, the University filed a lawsuit against us in the U.S. District Court for the District of Minnesota, alleging that the commercialization of sofosbuvir-containing products infringes the ’830 patent. We believe that the ’830 patent is invalid and will not be infringed by the continued commercialization of sofosbuvir.

European Patent Claims

In February 2015, several parties filed oppositions in the EPO requesting revocation of our granted European patent covering sofosbuvir that expires in 2028. In October 2016, the EPO upheld the validity of certain claims of our sofosbuvir patent. We anticipate that the challengers will appeal this decision in favor of our patent. The appeal process may take several years.

In January 2016, several parties filed oppositions in the EPO requesting revocation of our granted European patent covering TAF that expires in 2021.

In March 2016, three parties filed oppositions in the EPO requesting revocation of our granted European patent covering cobicistat that expires in 2027. While we are confident in the strength of our patents, we cannot predict the ultimate outcome of these oppositions.

If we are unsuccessful in defending these oppositions, some or all of our patent claims may be narrowed or revoked and the patent protection for sofosbuvir, TAF and cobicistat in Europe could be substantially shortened or eliminated entirely. If our patents are revoked, and no other European patents are granted covering these compounds, our exclusivity may be based entirely on regulatory exclusivity granted by the European Medicines Agency (EMA). Sovaldi has been granted regulatory exclusivity that will prevent generic sofosbuvir from entering the European Union for 10 years following approval of Sovaldi, or January 2024. If we lose exclusivity for Sovaldi prior to 2028, our expected revenues and results of operations could be negatively impacted for the years including and succeeding the year in which such exclusivity is lost, which may cause our stock price to decline.

Litigation with Generic Manufacturers

As part of the approval process for some of our products, FDA granted us a New Chemical Entity (NCE) exclusivity period during which other manufacturers' applications for approval of generic versions of our product will not be approved. Generic manufacturers may challenge the patents protecting products that have been granted NCE exclusivity one year prior to the end of the NCE exclusivity period. Generic manufacturers have sought and may continue to seek FDA approval for a similar or identical drug through an abbreviated new drug application (ANDA), the application form typically used by manufacturers seeking approval of a generic drug. The sale of generic versions of our products earlier than their patent expiration would have a significant negative effect on our revenues and results of operations. To seek approval for a generic version of a product having NCE status, a generic company may submit its ANDA to FDA four years after the branded product's approval. For sofosbuvir, this date falls in December 2017. Consequently, it is possible that one or more generics may file an ANDA for Sovaldi in December 2017.

Current legal proceedings of significance with generic manufacturers include:

HIV Products

In November 2011, December 2011 and August 2012, we received notices that Teva submitted an abbreviated new drug submission (ANDS) to the Canadian Minister of Health requesting permission to manufacture and market generic versions of Truvada, Atripla and Viread. In the notices, Teva alleges that the patents associated with Truvada, Atripla and Viread are invalid, unenforceable and/or will not be infringed by Teva's manufacture, use or sale of generic versions of those products. We filed lawsuits against Teva in the Federal Court of Canada seeking an order of prohibition against approval of these applications.

In December 2013, the court issued an order prohibiting the Canadian Minister of Health from approving Teva's generic versions of our Viread, Truvada and Atripla products until expiry of our patents in July 2017. Teva has appealed that decision. The court's decision did not rule on the validity of the patents and accordingly the only issue on appeal is whether the Canadian Minister of Health should be prohibited from approving Teva's products. In November 2016, we and Teva entered into a settlement agreement to resolve the ongoing contested proceedings concerning Teva's ANDS for generic versions of Truvada, Atripla, and Viread as well as Gilead's patents associated with Truvada, Atripla, and Viread.

In June 2014, we received notice that Apotex Inc. (Apotex) submitted an ANDS to the Canadian Minister of Health requesting permission to manufacture and market a generic version of Truvada and a separate ANDS requesting permission to manufacture and market a generic version of Viread. In the notice, Apotex alleges that three of the patents associated with Truvada and two of the patents associated with Viread are invalid, unenforceable and/or will not be infringed by Apotex's manufacture, use or sale of a generic version of Truvada or Viread. In August 2014, we filed lawsuits against Apotex in the Federal Court of Canada seeking orders of prohibition against approval of these ANDS. A hearing in those cases was held in April 2016. In July 2016, the court issued an order prohibiting the Canadian Minister of Health from approving Apotex's generic version of our Viread product until the expiry of our patents in July 2017. The court declined to prohibit approval of Apotex's generic version of our Truvada product. The court's decision did not rule on the validity of the patents. The launch of Apotex's generic version of our Truvada product would be at risk of infringement of our patents, including patents that we were unable to assert in the present lawsuit, and liability for our damages. Apotex has appealed the court's decision.

In February 2016, we received notice that Mylan Pharmaceuticals, Inc. (Mylan) submitted an ANDA to FDA requesting permission to manufacture and market a generic version of Tybost (cobicistat). In the notice, Mylan alleges that the patent covering cobicistat is invalid as obvious and that Mylan's generic product cannot infringe an invalid claim. In March 2016, we filed lawsuits against Mylan in the U.S. District Court for the District of Delaware and U.S. District Court for the Northern District of West Virginia. In January 2017, we received a letter from Mylan notifying us that it had submitted a duplicate ANDA to FDA for this same product. We are currently evaluating Mylan's letter. The trial in Delaware is scheduled for January 2018. The patent in suit that covers Tybost is also listed in the Orange Book for Stribild and Genvoya.

Letairis

In February 2015, we received notice that Watson Laboratories, Inc. (Watson) submitted an ANDA to FDA requesting permission to manufacture and market a generic version of Letairis. In the notice, Watson alleges that one of the patents associated with ambrisentan tablets is invalid, unenforceable and/or will not be infringed by Watson's manufacture, use or sale of a generic

version of Letairis. In April 2015, we filed a lawsuit against Watson in the U.S. District Court for the District of New Jersey for infringement of our patents. In January 2017, we reached an agreement with Watson to settle the litigation.

In June 2015, we received notice that SigmaPharm Laboratories, LLC (SigmaPharm) submitted an ANDA to FDA requesting permission to manufacture and market a generic version of Letairis. In the notice, SigmaPharm alleges that one of the patents associated with ambrisentan tablets is invalid, unenforceable and/or will not be infringed by SigmaPharm's manufacture, use or sale of a generic version of Letairis. In June 2015, we filed a lawsuit against SigmaPharm in the U.S. District Court for the District of New Jersey for infringement of our patents. The date for trial against SigmaPharm is not yet set but estimated to occur in the second quarter of 2017.

We cannot predict the ultimate outcome of these actions, and we may spend significant resources enforcing and defending these patents. If we are unsuccessful in these lawsuits, some or all of our claims in the patents may be narrowed or invalidated and the patent protection for our products could be substantially shortened. Further, if all of the patents covering one or more products are invalidated, FDA or the Canadian Minister of Health could approve the requests to manufacture a generic version of such products in the United States or Canada, respectively, prior to the expiration date of those patents. The sale of generic versions of these products earlier than their patent expiration could have a significant negative effect on our revenues and results of operations.

TAF Litigation

In January 2016, AIDS Healthcare Foundation, Inc. (AHF) filed a complaint with the U.S. District Court for the Northern District of California against Gilead, Japan Tobacco, Inc. and Japan Tobacco International, U.S.A. (together, JT), and Emory University (Emory). In April 2016, AHF amended its complaint to add Janssen and Johnson & Johnson Inc. (J&J) as defendants. AHF claims that U.S. Patent Nos. 7,390,791; 7,800,788; 8,754,065; 8,148,374; and 8,633,219 are invalid. In addition, AHF claims that Gilead, independently and together with JT, Akros, Janssen and J&J, is violating federal and state antitrust and unfair competition laws in the market for sales of TAF by offering TAF as part of a fixed-dose combination product with elvitegravir, cobicistat and emtricitabine (Genvoya), a fixed-dose combination product with elvitegravir and rilpivirine (Odefsey) and in a fixed-dosed combination product with elvitegravir (Descovy). AHF sought a declaratory judgment of invalidity against each of the patents as well as monetary damages. In May 2016, we, JT, Janssen, and J&J? filed motions to dismiss all of AHF's claims, which AHF opposed. In June 2016, a hearing was held on the motions to dismiss. In July 2016, the judge granted our and the other defendants' motions and dismissed all of AHF's claims. AHF has appealed the court's decision dismissing the challenge to the validity of our TAF patents.

Department of Justice Investigations

In June 2011, we received a subpoena from the U.S. Attorney's Office for the Northern District of California requesting documents related to the manufacture, and related quality and distribution practices, of Complera, Atripla, Truvada, Viread, Emtriva, Hepsera and Letairis. We cooperated with the government's inquiry. In April 2014, the United States Department of Justice informed us that, following an investigation, it declined to intervene in a False Claims Act lawsuit filed by two former employees. In April 2014, the former employees served a First Amended Complaint. In January 2015, the federal district court issued an order granting in its entirety, without prejudice, our motion to dismiss the First Amended Complaint. In February 2015, the plaintiffs filed a Second Amended Complaint and in June 2015, the federal district court issued an order granting our motion to dismiss the Second Amended Complaint. In July 2015, the plaintiffs filed a notice of appeal in the U.S. Court of Appeals for Ninth Circuit.

In February 2016, we received a subpoena from the U.S. Attorney's Office for the District of Massachusetts requesting documents related to our support of 501(c)(3) organizations that provide financial assistance to patients, and for our HCV products, documents concerning our provision of financial assistance to patients. Other companies have disclosed similar inquiries. We are cooperating with this inquiry.

Other Matters

We are a party to various legal actions that arose in the ordinary course of our business. We do not believe that these other legal actions will have a material adverse impact on our consolidated business, financial position or results of operations.

Trade Secrets

We also rely on unpatented trade secrets and improvements, unpatented internal know-how and technological innovation. For example, a great deal of our liposomal manufacturing expertise, which is a key component of our liposomal technology, is not covered by patents but is instead protected as a trade secret. We protect these rights mainly through confidentiality agreements with our corporate partners, employees, consultants and vendors. These agreements provide that all confidential information developed or made known to an individual during the course of their relationship with us will be kept confidential and will not be used or disclosed to third parties except in specified circumstances. In the case of employees, the agreements provide that all inventions made by an individual while employed by us will be our exclusive property. We cannot be certain that these parties will

comply with these confidentiality agreements, that we have adequate remedies for any breach or that our trade secrets will not otherwise become known or be independently discovered by our competitors. Under some of our R&D agreements, inventions become jointly owned by us and our corporate partner and in other cases become the exclusive property of one party. In certain circumstances, it can be difficult to determine who owns a particular invention and disputes could arise regarding those inventions. If our trade secrets or confidential information become known or independent discovered by competitors or if we enter into disputes over ownership of inventions, our business and results of operations could be adversely affected.

Manufacturing and Raw Materials

Our manufacturing strategy is to contract with third parties to manufacture the majority of our API and solid dose products. We also rely on our corporate partners to manufacture certain of our products. Additionally, we own or lease manufacturing facilities in Foster City, San Dimas and Oceanside, California; Edmonton, Alberta, Canada and Cork, Ireland, where we manufacture certain products and API for clinical and/or commercial uses.

Manufacturing of our Products

We contract with third parties to manufacture certain API for clinical and commercial purposes, including Epclusa, Harvoni, Sovaldi, Truvada, Atripla, Stribild, Complera/Eviplera, Viread, Genvoya, Odefsey, Descovy, Vemlidy, Emtriva, Tybost, Vitekta, Ranexa, AmBisome, Zydelig and Cayston. We generally use multiple third-party contract manufacturers to manufacture the API in our products. We are the exclusive manufacturer of ambrisentan, the API of Letairis, although another supplier is qualified to make the API of Letairis.

We also rely on third-party contract manufacturers to manufacture our oral liquid, tablet and capsule products. For example, we use multiple third-party contract manufacturers to tablet Epclusa, Harvoni, Sovaldi, Truvada, Atripla, Stribild, Complera/Eviplera, Viread, Genvoya, Odefsey, Descovy, Vemlidy, Tybost, Vitekta, Letairis, Ranexa, Zydelig and Hepsera. Emtriva encapsulation is also completed by a third-party contract manufacturer as is the liquid filling of Emtriva Oral Solution. In addition, we rely on third-party contract manufacturers to manufacture our aseptic products such as AmBisome and Cayston.

We also have manufacturing agreements with many of our corporate partners. Roche, by itself and through third parties, is responsible for manufacturing Tamiflu. Under our agreement with Roche, through a joint manufacturing committee composed of representatives from Roche and Gilead, we have the opportunity to review Roche's existing manufacturing capacity for Tamiflu and global plans for manufacturing Tamiflu. Astellas US LLC, our corporate partner for Lexiscan in the United States, is responsible for the commercial manufacture and supply of product in the United States and is dependent on a single supplier for the API of Lexiscan.

For our future products, we continue to develop additional manufacturing capabilities and establish additional third-party suppliers to manufacture sufficient quantities of our product candidates to undertake clinical trials and to manufacture sufficient quantities of any product that is approved for commercial sale.

Our Manufacturing Facilities

At our Foster City, California facility, we conduct process chemistry research and development activities, manufacture API for our clinical trials and oversee our third-party contract manufacturers.

At our San Dimas, California facility, we package and label solid oral dosage form products, including Epclusa, Harvoni, Sovaldi, Truvada, Atripla, Stribild, Complera/Eviplera, Viread, Genvoya, Odefsey, Descovy, Vemlidy, Emtriva, Ranexa and Zydelig, and label Hepsera and Letairis. We also manufacture and label AmBisome and Cayston at our San Dimas facility. We depend on a single supplier for the high quality cholesterol and the API used in the manufacture of AmBisome. Because we are the exclusive supplier of key drug product intermediates of AmBisome, in the event of a disaster, including an earthquake, equipment failure or other difficulty, we may be unable to replace this manufacturing capacity in a timely manner and may be unable to manufacture AmBisome to meet market needs.

We utilize our Cork, Ireland facility primarily for solid dose tablet manufacturing of certain of our antiviral products, as well as product packaging activities. We package and label drug product for Epclusa, Harvoni, Sovaldi, Truvada, Atripla, Stribild, Complera/Eviplera, Viread, Genvoya, Odefsey, Descovy, Vemlidy, Tybost and Vitekta and label Hepsera and Emtriva at our facilities in Cork, Ireland. We also perform quality control testing, final labeling and secondary packaging of both AmBisome and Cayston and final release of many of our products for the European Union and elsewhere at this facility. We distribute our products to the European Union and other international markets from our Dublin, Ireland site.

At our Edmonton, Alberta facility in Canada, we carry out process research and scale-up of our clinical development candidates, manufacture API for both investigational and commercial products and conduct chemical development activities to improve existing commercial manufacturing processes. We also manufacture the API of Letairis and Hepsera at our Edmonton site.

Our Oceanside, California facility is designed and equipped to produce biologic compounds for toxicological, Phase 1 and Phase 2 clinical studies. We use the facility for the process development and manufacture of GS-5745 bulk drug substance, an investigational MMP9 mAb inhibitor, and other biologics.

Third-party Manufacturers

Our third-party manufacturers and corporate partners are independent entities who are subject to their own unique operational and financial risks which are out of our control. If we or any of these third-party manufacturers or corporate partners fail to perform as required, this could impair our ability to deliver our products on a timely basis or receive royalties or cause delays in our clinical trials and applications for regulatory approval. Further, we may have to write-off the costs of manufacturing any batch that fails to pass quality inspection or meet regulatory approval. To the extent these risks materialize and affect their performance obligations to us, our financial results may be adversely affected. In addition, we, our third-party manufacturers and our corporate partners may only be able to produce some of our products at one or a limited number of facilities and, therefore, have limited manufacturing capacity for certain products.

We believe the technology we use to manufacture our products is proprietary. For products manufactured by our third-party contract manufacturers, we have disclosed all necessary aspects of this technology to enable them to manufacture the products for us. We have agreements with these third-party manufacturers that are intended to restrict these manufacturers from using or revealing this technology, but we cannot be certain that these third-party manufacturers will comply with these restrictions. In addition, these third-party manufacturers could develop their own technology related to the work they perform for us that we may need to manufacture our products. We could be required to enter into additional agreements with these third-party manufacturers if we want to use that technology ourselves or allow another manufacturer to use that technology. The third-party manufacturer could refuse to allow us to use their technology or could demand terms to use their technology that are not acceptable to us.

Regulation of Manufacturing Process

The manufacturing process for pharmaceutical products is highly regulated and regulators may shut down manufacturing facilities that they believe do not comply with regulations. We, our third-party manufacturers and our corporate partners are subject to current Good Manufacturing Practices, which are extensive regulations governing manufacturing processes, stability testing, record keeping and quality standards as defined by FDA and EMA. Similar regulations are in effect in other countries.

Our manufacturing operations are subject to routine inspections by regulatory agencies. For example, in 2014, we received a letter from FDA related to the extent of method revalidations being conducted, stability program oversight, audit trail review/data management and Quality Management System gaps. We completed and filed our responses to these observations with FDA. If we are unable to remedy the deficiencies cited by FDA or to the extent there are additional deficiencies cited by FDA in future inspections, our currently marketed products and the timing of regulatory approval of products in development could be adversely affected. Further, there is risk that regulatory agencies in other countries where marketing applications are pending will undertake similar additional reviews or apply a heightened standard of review, which could delay the regulatory approvals for products in those countries. If approval of any of our product candidates were delayed or if production of our marketed products was interrupted, our anticipated revenues and our stock price would be adversely affected.

Access to Supplies and Materials

We need access to certain supplies and products to conduct our clinical trials and manufacture our products. If we are unable to purchase sufficient quantities of these materials or find suitable alternate materials in a timely manner, our development efforts for our product candidates may be delayed or our ability to manufacture our products would be limited, which would limit our ability to generate revenues. For example, a significant portion of the raw materials and intermediates used to manufacture our antiviral products are supplied by third-party manufacturers and corporate partners outside of the United States. As a result, any political or economic factors in a specific country or region, including any changes in or interpretations of trade regulations, compliance requirements or tax legislation, that would limit or prevent third parties outside of the United States from supplying these materials would adversely affect our ability to manufacture and supply our antiviral products to meet market needs and have a material and adverse effect on our operating results.

Seasonal Operations and Backlog

Our worldwide product sales do not reflect any significant degree of seasonality.

For the most part, we operate in markets characterized by short lead times and the absence of significant backlogs. We do not believe that backlog information is material to our business as a whole.

Government Regulation

Our operations and activities are subject to extensive regulation by numerous government authorities in the United States and other countries. In the United States, the European Union and other countries, drugs are subject to rigorous regulation. Federal and state statutes and regulations govern the testing, manufacture, safety, efficacy, labeling, storage, record keeping, approval, advertising and promotion of our products. As a result of these regulations, product development and product approval processes are very expensive and time consuming. The regulatory requirements applicable to drug development and approval are subject to change. For example, in December 2016, former U.S. President Obama signed into law the 21st Century Cures Act, which contains a broad range of measures aimed at spurring drug discovery, development and delivery. These and other legal and regulatory changes may impact our operations in the future.

A country's regulatory agency, such as FDA in the United States and EMA for the European Union, must approve a drug before it can be sold in the respective country or countries. The general process for drug approval in the United States is summarized below. Many other countries, including countries in the European Union and Japan, have very similar regulatory structures.

Preclinical Testing

Before we can test a drug candidate in humans, we must study the drug in laboratory experiments and in animals to generate data to support the drug candidate's potential benefits and safety. We submit this data to FDA in an investigational new drug (IND) application seeking its approval to test the compound in humans.

Clinical Trials

If FDA accepts the IND, the drug candidate can then be studied in human clinical trials to determine if the drug candidate is safe and effective. These clinical trials involve three separate phases that often overlap, can take many years and are very expensive. These three phases, which are subject to considerable regulation, are as follows:

- Phase 1. The drug candidate is given to a small number of healthy human control subjects or patients suffering from the indicated disease, to test for safety, dose tolerance, pharmacokinetics, metabolism, distribution and excretion.
- Phase 2. The drug candidate is given to a limited patient population to determine the effect of the drug candidate in treating the disease, the best dose of the drug candidate, and the possible side effects and safety risks of the drug candidate. It is not uncommon for a drug candidate that appears promising in Phase 1 clinical trials to fail in the more rigorous Phase 2 clinical trials.
- Phase 3. If a drug candidate appears to be effective and safe in Phase 2 clinical trials, Phase 3 clinical trials are commenced to confirm those results. Phase 3 clinical trials are conducted over a longer term, involve a significantly larger population, are conducted at numerous sites in different geographic regions and are carefully designed to provide reliable and conclusive data regarding the safety and benefits of a drug candidate. It is not uncommon for a drug candidate that appears promising in Phase 2 clinical trials to fail in the more rigorous and extensive Phase 3 clinical trials.

FDA Approval Process

When we believe that the data from our clinical trials show an acceptable benefit-risk profile, we submit the appropriate filing, usually in the form of an NDA or supplemental NDA, with FDA seeking approval to sell the drug candidate for a particular use. FDA may hold a public hearing where an independent advisory committee of expert advisors asks additional questions and makes recommendations regarding the drug candidate. This committee makes a recommendation to FDA that is not binding but is generally followed by FDA. If FDA agrees that the compound has met the required level of safety and efficacy for a particular use, it will allow us to sell the drug candidate in the United States for that use. It is not unusual, however, for FDA to reject an application because it believes that the drug candidate is not safe enough or efficacious enough or because it does not believe that the data submitted is reliable or conclusive.

At any point in this process, the development of a drug candidate can be stopped for a number of reasons including safety concerns and lack of treatment benefit. We cannot be certain that any clinical trials that we are currently conducting or any that we conduct in the future will be completed successfully or within any specified time period. We may choose, or FDA may require us, to delay or suspend our clinical trials at any time if it appears that the patients are being exposed to an unacceptable health risk or if the drug candidate does not appear to have sufficient treatment benefit.

FDA may also require Phase 4 non-registrational studies to explore scientific questions to further characterize safety and efficacy during commercial use of our drug. FDA may also require us to provide additional data or information, improve our manufacturing processes, procedures or facilities or may require extensive surveillance to monitor the safety or benefits of our product candidates if it determines that our filing does not contain adequate evidence of the safety and benefits of the drug. In addition, even if FDA approves a drug, it could limit the uses of the drug. FDA can withdraw approvals if it does not believe that we are complying with regulatory standards or if problems are uncovered or occur after approval.

In addition to obtaining FDA approval for each drug, we obtain FDA approval of the manufacturing facilities for any drug we sell, including those of companies who manufacture our drugs for us. All of these facilities are subject to periodic inspections by FDA. FDA must also approve foreign establishments that manufacture products to be sold in the United States and these facilities are subject to periodic regulatory inspection. Our manufacturing facilities located in California, including our Oceanside and San Dimas facilities, also must be licensed by the State of California in compliance with local regulatory requirements. Our manufacturing facilities located in Canada, including our Edmonton, Alberta facility, and our facilities located near Dublin and in Cork, Ireland, also must obtain local licenses and permits in compliance with local regulatory requirements.

Drugs that treat serious or life threatening diseases and conditions that are not adequately addressed by existing drugs, and for which the development program is designed to address the unmet medical need, may be designated as fast track candidates by FDA and may be eligible for priority review. Drugs for the treatment of HIV infection that are designated for use under the U.S. President's Emergency Plan for AIDS Relief may also qualify for an expedited or priority review.

Rest of World

Drugs are also subject to extensive regulation outside of the United States. In the European Union, there is a centralized approval procedure that authorizes marketing of a product in all countries of the European Union (which includes most major countries in Europe). If this centralized approval procedure is not used, approval in one country of the European Union can be used to obtain approval in another country of the European Union under one of two simplified application processes: the mutual recognition procedure or the decentralized procedure, both of which rely on the principle of mutual recognition. After receiving regulatory approval through any of the European registration procedures, separate pricing and reimbursement approvals are also required in most countries. The European Union also has requirements for approval of manufacturing facilities for all products that are approved for sale by the European regulatory authorities.

Pricing and Reimbursement

Successful commercialization of our products depends, in part, on the availability of governmental and third-party payer reimbursement for the cost of such products and related treatments in the markets where we sell our products. Government health authorities, private health insurers and other organizations generally provide reimbursement. In the United States, the European Union, Japan and other significant or potentially significant markets for our products and product candidates, government authorities and third-party payers are increasingly attempting to limit or regulate the price of medical products and services. A significant portion of our sales of the majority of our products are subject to substantial discounts from list price.

In addition, the non-retail sector in the United States, which includes government institutions, including state ADAPs, Veterans Administration (VA), correctional facilities and large health maintenance organizations, tends to be even less consistent in terms of buying patterns and often causes quarter-over-quarter fluctuations that do not necessarily mirror patient demand for our products. Federal and state budget pressures, including sequestration, as well as the annual grant cycles for federal and state funds, may cause purchasing patterns to not reflect patient demand of our products. For example, in the first quarters of certain prior years, we observed large non-retail purchases of our HIV products by a number of state ADAPs that exceeded patient demand. We believe such purchases were driven by the grant cycle for federal ADAP funds. Additionally, during the second half of 2016, we experienced fluctuations in VA new HCV patient starts and purchasing patterns due to VA funding. We expect to continue to experience fluctuations in the purchasing patterns of our non-retail customers which may result in fluctuations in our product sales, revenues and earnings in the future. In light of the global economic downturn and budget crises faced by many European countries, we have observed variations in purchasing patterns induced by cost containment measures in Europe. We believe these measures have caused some government agencies and other purchasers to reduce inventory of our products in the distribution channels, which has decreased our revenues and caused fluctuations in our product sales and earnings. We may continue to see this trend in the future.

In addition, future sales of our HCV products are difficult to estimate because demand depends, in part, on the extent of reimbursement of our HCV products by private and government payers. In light of continued fiscal and debt crises experienced by several countries in the European Union and Japan, governments have announced or implemented measures to manage healthcare expenditures. We may continue to experience global pricing pressure which could result in larger discounts or rebates on our products or delayed reimbursement, which negatively impacts our product sales and results of operations. Also, private and public payers can choose to exclude our HCV products from their formulary coverage lists or limit the types of patients for whom coverage will be provided, which would negatively impact the demand for, and revenues of, our HCV products. Any change in the formulary coverage, reimbursement levels or discounts or rebates offered on our HCV products to payers may impact our anticipated revenues. We expect pricing pressure in the HCV market to continue.

As our products mature, private insurers and government payers often reduce the amount they will reimburse patients, which increases pressure on us to reduce prices. Further, as new branded or generic products are introduced into major markets, our ability to maintain pricing and market share may be affected.

See also our Item 1A - risk factor “A substantial portion of our revenues is derived from sales of products to treat HCV and HIV. If we are unable to maintain or continue increasing sales of these products, our results of operations may be adversely affected.”

In February 2016, we received a subpoena from the U.S. Attorney’s Office for the District of Massachusetts requesting documents related to our support of 501(c)(3) organizations that provide financial assistance to patients, and for our HCV products, documents concerning our provision of financial assistance to patients. Other companies have disclosed similar inquiries. We are cooperating with this inquiry. It is possible that any actions taken by the U.S. Department of Justice could result in civil penalties or injunctive relief, negative publicity or other negative actions that could harm our reputation, reduce demand for our products and/or reduce coverage of our products, including by federal health care programs such as Medicare and Medicaid and state health care programs. If any or all of these events occur, our business and stock price could be materially and adversely affected.

United States Healthcare Reform

Legislative and regulatory changes to government prescription drug procurement and reimbursement programs occur relatively frequently in the United States and foreign jurisdictions. In the United States, we, along with other pharmaceutical manufacturers of branded drug products, are required to pay a portion of an industry fee (also known as the branded prescription drug (BPD) fee), calculated based on select government sales during the year as a percentage of total industry government sales. The amount of the annual BPD fee imposed on the pharmaceutical industry as a whole was $3.0 billion in 2016, and will increase to $4.0 billion in 2017, increase to a peak of $4.1 billion in 2018, and then decrease to $2.8 billion in 2019 and thereafter. Our BPD fee expenses were $270 million in 2016, $414 million in 2015 and $590 million in 2014. The BPD fee is not tax deductible. In addition, discussions continue at the federal level on legislation that would either allow or require the federal government to directly negotiate price concessions from pharmaceutical manufacturers or set minimum requirements for Medicare Part D pricing. Further, certain states have proposed legislation that seeks to regulate pharmaceutical drug pricing. If such proposed legislation is passed, we may experience additional pricing pressures on our products.

There has been extensive discussion about a possible repeal or amendment of The Patient Protection and Affordable Care Act (the Affordable Care Act) or other government action, which could negatively impact the use and/or reimbursement of our products. In January 2017, Congress voted to adopt a budget resolution for fiscal year 2017, that while not law, is widely viewed as the first step toward the passage of legislation that would repeal certain aspects of the Affordable Care Act. Further, on January 20, 2017, the new administration issued an Executive Order directing federal agencies with authorities and responsibilities under the Affordable Care Act to waive, defer, grant exemptions from, or delay the implementation of any provision of the Affordable Care Act that would impose a fiscal burden on states or a cost, fee, tax, penalty or regulatory burden on individuals, healthcare providers, health insurers, or manufacturers of pharmaceuticals or medical devices. Congress could also consider legislation to replace repealed elements of the Affordable Care Act.

In addition, many states have proposed legislation that seeks to indirectly or directly regulate pharmaceutical drug pricing by requiring biopharmaceutical manufacturers to publicly report proprietary pricing information or to place a maximum price ceiling on pharmaceutical products purchased by state agencies. If such proposed legislation is passed, we may experience additional pricing pressures on our products. Similar bills have been previously introduced at the federal level and we expect that additional legislation may be introduced this year. The potential effect of health insurance market destabilization during ongoing repeal and replace discussions, as well as the impact of potential changes to the way the Medicaid program is financed, will likely affect patients’ sources of insurance and resultant drug coverage. Discussions continue at the federal level regarding policies that would either allow or require the U.S. government to directly negotiate drug prices with pharmaceutical manufacturers for Medicare patients, require manufacturers to pay higher rebates in Medicare Part D, give states more flexibility on drugs that are covered under the Medicaid program, and other policy proposals that could impact reimbursement for our products. Other discussions have centered on legislation that would permit the re-importation of prescription medications from Canada or other countries. It is difficult to predict the impact, if any, of any such legislation on the use and reimbursement of our products in the United States, including the potential for the importation of generic versions of our products.

In addition, state Medicaid programs could request additional supplemental rebates on our products as a result of the increase in the federal base Medicaid rebate. Private insurers could also use the enactment of these increased rebates to exert pricing pressure on our products, and to the extent that private insurers or managed care programs follow Medicaid coverage and payment developments, the adverse effects may be magnified by private insurers adopting lower payment schedules.

Health Care Fraud and Abuse Laws and Anti-Bribery Laws

We are subject to various federal and state laws pertaining to health care “fraud and abuse,” including anti-kickback laws and false claims laws. Anti-kickback laws make it illegal for a prescription drug manufacturer to solicit, offer, receive or pay any remuneration in exchange for, or to induce, the referral of business, including the purchase or prescription of a particular drug. Due to the breadth of the statutory provisions and the increasing attention being given to them by law enforcement authorities, it is possible that certain of our practices may be challenged under anti-kickback or similar laws. False claims laws generally prohibit anyone from knowingly presenting, or causing to be presented, a false or fraudulent claim for payment by federal and certain state

payers (including Medicare and Medicaid), or knowingly making, using or causing to be made or used, a false record or statement material to a false or fraudulent claim. Our sales, marketing, patient support and medical activities may be subject to scrutiny under these laws. In addition, the U.S. Foreign Corrupt Practices Act and similar worldwide anti-bribery laws generally prohibit companies and their intermediaries from making improper payments for the purpose of obtaining or retaining business. Our policies mandate compliance with these anti-bribery laws. We operate in parts of the world that have experienced governmental corruption to some degree. In certain circumstances, strict compliance with anti-bribery laws may conflict with local customs and practices or may require us to interact with doctors and hospitals, some of which may be state controlled, in a manner that is different than local custom. Despite our training and compliance program, our internal control policies and procedures may not protect us from reckless or criminal acts committed by our employees or agents. Violations of fraud and abuse laws or anti-bribery laws may be punishable by criminal and/or civil sanctions, including fines and civil monetary penalties, as well as the possibility of exclusion from federal health care programs (including Medicare and Medicaid). Violations can also lead to the imposition of a Corporate Integrity Agreement or similar government oversight program. If the government were to allege against or convict us of violating these laws, there could be a disruption on our business and material adverse effect on our results of operations.

Compulsory Licenses

In a number of developing countries, government officials and other interested groups have suggested that pharmaceutical companies should make drugs for HCV or HIV infection available at low cost. Alternatively, governments in those developing countries could require that we grant compulsory licenses to allow competitors to manufacture and sell their own versions of our products, thereby reducing our product sales. For example, there is growing attention on the availability of HCV therapies and some activists are advocating for the increased availability of HCV therapies through other means including compulsory licenses. In the past, certain offices of the government of Brazil have expressed concern over the affordability of our HIV products and declared that they were considering issuing compulsory licenses to permit the manufacture of otherwise patented products for HIV infection, including Viread. In addition, concerns over the cost and availability of Tamiflu related to a potential avian flu pandemic and H1N1 influenza generated international discussions over compulsory licensing of our Tamiflu patents. For example, the Canadian government considered allowing Canadian manufacturers to manufacture and export the active ingredient in Tamiflu to eligible developing and least developed countries under Canada's Access to Medicines Regime. Furthermore, Roche issued voluntary licenses to permit third-party manufacturing of Tamiflu. For example, Roche granted a sublicense to Shanghai Pharmaceutical (Group) Co., Ltd. for China and a sublicense to India's Hetero Drugs Limited for India and certain developing countries. If compulsory licenses permit generic manufacturing to override our product patents for our HCV products, HIV products or Tamiflu, or if we are required to grant compulsory licenses for these products, it could reduce our earnings and cash flows and harm our business.

In addition, certain countries do not permit enforcement of our patents, or permit our patents to issue, and third-party manufacturers are able to sell generic versions of our products in those countries. For example, in July 2009, the Brazilian patent authority rejected our patent application for TDF, the active pharmaceutical ingredient in Viread. This was the highest level of appeal available to us within the Brazilian patent authority. Because we do not currently have a patent in Brazil, the Brazilian government now purchases its supply of TDF from generic manufacturers. In the first quarter of 2017, the Brazilian Health Regulatory Agency rejected our patent applications related to sofosbuvir and our HCV products. We plan to appeal this decision. Sales of generic versions of our products could significantly reduce our sales and adversely affect our results of operations, particularly if generic versions of our products are imported into territories where we have existing commercial sales.

Employees

As of January 31, 2017, we had approximately 9,000 employees. We believe we have good relations with our employees.

Environment, Health and Safety

We strive to reduce our environmental footprint and implement sustainable business process and practices, We incorporate sustainability throughout the development and distribution of our medicines. From the safety and regulatory compliance of our products to the regular efficiency improvements we make to our manufacturing processes, the operations surrounding our product portfolio are routinely evaluated for new and innovative ways to further incorporate social and environmental responsibility. Our practices include ethical sourcing of materials, green chemistry practices, solvent recycling and continued improvements to the sustainability and efficiency of the API and product development process. Gilead sites around the world identify opportunities to reduce natural resource usage through water conservation, sustainable building practices, energy conservation, recycling and diversion from landfill and alternative transportation. We continue to look for ways to minimize our impact on the environment. Some factors that contribute to our environmental impact include greenhouse gas emissions produced by employee commutes, the energy and water consumed by our facilities, and the use of hazardous materials such as chemicals, viruses and radioactive compounds in our R&D facilities. Please refer to our 2015 Corporate Social Responsibility Report found on our website at

www.gilead.com under “Responsibility” for some of the measures we have taken to mitigate the environmental impact from our business.

We are subject to a number of laws and regulations that require compliance with federal, state, and local regulations regarding workplace safety and protection of the environment. We anticipate additional regulations in the near future. Laws and regulations are implemented and under consideration to mitigate the effects of climate change mainly caused by greenhouse gas emissions. Our business is not energy intensive. Therefore, we do not anticipate being subject to a cap and trade system or other mitigation measure that would materially impact our capital expenditures, operations, or competitive position. Based on current information, and subject to the finalization of proposed regulations, we believe that our primary risk related to climate change is increased energy costs.

Other Information

We are subject to the information requirements of the Exchange Act. Therefore, we file periodic reports, proxy statements and other information with the SEC. Such reports, proxy statements and other information may be obtained by visiting the Public Reference Room of the SEC at 100 F Street, NE, Washington, D.C. 20549 or by calling the SEC at 1-800-SEC-0330, by sending an electronic message to the SEC at publicinfo@sec.gov or by sending a fax to the SEC at 1-202-777-1027. In addition, the SEC maintains a website (www.sec.gov) that contains reports, proxy and information statements, and other information regarding issuers that file electronically.

The mailing address of our headquarters is 333 Lakeside Drive, Foster City, California 94404, and our telephone number at that location is 650-574-3000. Our website is www.gilead.com. Through a link on the “Investors” section of our website (under “SEC Filings” in the “Financial Information” section), we make available the following filings as soon as reasonably practicable after they are electronically filed with or furnished to the SEC: our Annual Reports on Form 10-K; Quarterly Reports on Form 10-Q; Current Reports on Form 8-K; and any amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act. All such filings are available free of charge upon request.

Transactions with Iran

We did not have any transactions with Iran during 2016 that would require disclosure in this Annual Report on Form 10-K.

ITEM 1A. RISK FACTORS

In evaluating our business, you should carefully consider the following risks in addition to the other information in this Annual Report on Form 10-K. A manifestation of any of the following risks could materially and adversely affect our business, results of operations and financial condition. We note these factors for investors as permitted by the Private Securities Litigation Reform Act of 1995. It is not possible to predict or identify all such factors and, therefore, you should not consider the following risks to be a complete statement of all the potential risks or uncertainties that we face.

A substantial portion of our revenues is derived from sales of products to treat HCV and HIV. If we are unable to increase HIV sales or if HCV sales decrease more than anticipated, then our results of operations may be adversely affected.

During the year ended December 31, 2016, sales of Epclusa, Harvoni and Sovaldi for the treatment of HCV accounted for approximately 50% of our total product sales. The primary driver of our HCV product revenues is patient starts, followed by market share, average treatment duration and price. Since the second quarter of 2015, the number of new patient starts has diminished, and we expect patient starts to decline relative to 2016 in all major markets, resulting in a decline in HCV revenues. Revenue per patient may also decline as a result of increased competition and pricing pressures, a larger than anticipated shift in our payer mix to more highly discounted payer segments and geographic regions and a decrease in the average duration of treatment as fewer patients are treated for 24 or 12 weeks and more patients are treated for 8 weeks. We also could experience a decline in market share due to increased competition from new HCV products that enter the market.

In addition, future sales of Epclusa, Harvoni and Sovaldi are difficult to estimate because demand depends, in part, on the extent of reimbursement of our HCV products by private and government payers. In light of continued financial crises experienced by several countries in the European Union, some governments have announced or implemented measures to further reduce healthcare expenditures. We may continue to experience global pricing pressure which could result in larger discounts or rebates on our products or delayed reimbursement, which negatively impacts our product sales and results of operations. Also, private and public payers can choose to exclude Epclusa, Harvoni and Sovaldi from their formulary coverage lists or limit the types of patients for whom coverage will be provided, which would negatively impact the demand for, and revenues of, Epclusa, Harvoni and Sovaldi. Any change in the formulary coverage, reimbursement levels or discounts or rebates offered on our HCV products to payers may impact our anticipated revenues. We expect pricing pressure in the HCV market to continue. If we are unable to achieve our forecasted HCV sales, our HCV product revenues and results of operations could be negatively affected, and our stock price could experience significant volatility.

We receive a substantial portion of our revenue from sales of our products for the treatment of HIV infection, which include Descovy, Odefsey, Genvoya, Truvada, Stribild, Complera/Eviplera and Atripla. During the year ended December 31, 2016, sales of our HIV products accounted for approximately 43% of our total product sales. Most of our HIV products contain tenofovir alafenamide (TAF), tenofovir disoproxil fumarate (TDF) and/or emtricitabine, which belong to the nucleoside class of antiviral therapeutics. In addition, if the treatment paradigm for HIV changes, causing nucleoside-based therapeutics to fall out of favor, or if we are unable to maintain or increase our HIV product sales, our results of operations would likely suffer and we would likely need to scale back our operations, including our spending on research and development (R&D) efforts.

We may be unable to sustain or increase sales of our HCV or HIV products for any number of reasons including, but not limited to, the reasons discussed above and the following:

- As our HCV and HIV products are used over a longer period of time in many patients and in combination with other products, and additional studies are conducted, new issues with respect to safety, resistance and interactions with other drugs may arise, which could cause us to provide additional warnings or contraindications on our labels, narrow our approved indications or halt sales of a product, each of which could reduce our revenues.
- As our products mature, private insurers and government payers often reduce the amount they will reimburse patients for these products, which increases pressure on us to reduce prices.
- If physicians do not see the benefit of our HCV or HIV products, the sales of our HCV or HIV products will be limited.
- As new branded or generic products are introduced into major markets, our ability to maintain pricing and market share may be affected. For example, TDF, one of the active pharmaceutical ingredients in Stribild, Complera/Eviplera, Atripla and Truvada, and the main active pharmaceutical ingredient in Viread, is expected to face generic competition in the United States, the European Union and other countries in 2017. In addition, because emtricitabine, the other active pharmaceutical ingredient of Truvada, faced generic competition in the European Union in 2016, Truvada is also expected to face generic competition in the European Union and other countries outside of the United States in 2017. This may have a negative impact on our business and results of operations.

If we fail to commercialize new products or expand the indications for existing products, our prospects for future revenues may be adversely affected.

If we do not introduce new products or increase sales of our existing products, we will not be able to increase or maintain our total revenues nor continue to expand our R&D efforts. Drug development is inherently risky and many product candidates fail during the drug development process. For example, during 2016 we announced that we terminated our Phase 2 and 2b studies of simtuzumab for the treatment of idiopathic pulmonary fibrosis, NASH and primary sclerosing cholangitis, our Phase 2 and 2/3 studies of GS-5745 for the treatment of Crohn's Disease and ulcerative colitis, our Phase 2 studies of selonsertib for the treatment of pulmonary arterial hypertension and diabetic kidney disease, and our studies of eleclazine for the treatment of cardiovascular diseases. In addition, we may decide to terminate product development after expending significant resources and effort. For example, after completion of two Phase 3 studies of momelotinib for the treatment of myelofibrosis in 2016, we decided to terminate the development of momelotinib.

In the fourth quarter of 2016 and the first quarter of 2017, we filed our new drug application (NDA) and marketing authorization application (MAA) in the United States and European Union for the approval of an investigational, once-daily, single-tablet regimen of sofosbuvir 400 mg, velpatasvir 100 mg and voxilaprevir 100 mg (SOF/VEL/VOX) for the treatment of direct-acting antiviral (DAA)-experienced HCV-infected patients. These and any future marketing applications we file may not be approved by the regulatory authorities on a timely basis, or at all. Even if marketing approval is granted for these products, there may be significant limitations on their use. Further, we may be unable to file our marketing applications for new products.

Our inability to accurately predict demand for our products, uptake of new products or fluctuations in customer inventories makes it difficult for us to accurately forecast sales and may cause our forecasted revenues and earnings to fluctuate, which could adversely affect our financial results and our stock price.

We may be unable to accurately predict demand for our products, including the uptake of new products, as demand is dependent on a number of factors. For example, our HCV products, Epclusa, Harvoni and Sovaldi, represent a significant change in the treatment paradigm for HCV-infected patients due to the shortened duration of treatment and the elimination of pegylated interferon injection and ribavirin in most patient populations. Because these products represent a cure and competitors' HCV products have entered the market and will continue to enter the market, revenues from our HCV products are difficult for us and investors to estimate. The primary driver of our HCV product revenues is patient starts, followed by market share, average treatment duration and price. In our experience, the number of patient starts is very difficult to accurately predict. In addition, demand for Epclusa, Harvoni and Sovaldi will depend on the extent of reimbursement of our HCV products by private and public payers in the United States and other countries. Private and public payers can choose to exclude Epclusa, Harvoni or Sovaldi from their formulary coverage lists or limit the types of patients for whom coverage will be provided, which would negatively impact the demand for

and revenues of Epclusa, Harvoni and Sovaldi. We continue to experience pricing pressure in the United States, the European Union, Japan and other countries. Any change in the formulary coverage, reimbursement levels or discounts or rebates offered on our HCV products to payers may negatively impact our anticipated revenues. In addition, because rebate claims for product discounts are made by payers one or two quarters in arrears, we estimate the rebates we will be required to pay in connection with sales during a particular quarter based on claims data from prior quarters. In the first quarter of 2016, we received higher than expected prior quarter rebate claims. This had the effect of lowering our revenue for the quarter. Because HCV-related revenues are difficult to predict, investors may have widely varying expectations that may be materially higher or lower than our actual or anticipated revenues. To the extent our actual or anticipated HCV product revenues exceed or fall short of these expectations, our stock price may experience significant volatility.

During the year ended December 31, 2016, approximately 88% of our product sales in the United States were to three wholesalers, McKesson Corp., AmerisourceBergen Corp., and Cardinal Health, Inc. The U.S. wholesalers with whom we have entered into inventory management agreements make estimates to determine end user demand and may not be completely effective in matching their inventory levels to actual end user demand. As a result, changes in inventory levels held by those wholesalers can cause our operating results to fluctuate unexpectedly if our sales to these wholesalers do not match end user demand. In addition, inventory is held at retail pharmacies and other non-wholesaler locations with whom we have no inventory management agreements and no control over buying patterns. Adverse changes in economic conditions or other factors may cause retail pharmacies to reduce their inventories of our products, which would reduce their orders from wholesalers and, consequently, the wholesalers' orders from us, even if end user demand has not changed. For example, during the fourth quarter of 2015, strong wholesaler and sub-wholesaler purchases of our HIV products resulted in inventory draw-down by wholesalers and sub-wholesalers in the first quarter of 2016. As inventory in the distribution channel fluctuates from quarter to quarter, we may continue to see fluctuations in our earnings and a mismatch between prescription demand for our products and our revenues.

In addition, the non-retail sector in the United States, which includes government institutions, including state ADAPs, VA, correctional facilities and large health maintenance organizations, tends to be even less consistent in terms of buying patterns and often causes quarter-over-quarter fluctuations that do not necessarily mirror patient demand for our products. Federal and state budget pressures, including sequestration, as well as the annual grant cycles for federal and state funds, may cause purchasing patterns to not reflect patient demand of our products. For example, in the first quarters of certain prior years, we observed large non-retail purchases of our HIV products by a number of state ADAPs that exceeded patient demand. We believe such purchases were driven by the grant cycle for federal ADAP funds. Additionally, during the second half of 2016, we experienced fluctuations in VA new HCV patient starts and purchasing patterns due to VA funding. We expect to continue to experience fluctuations in the purchasing patterns of our non-retail customers which may result in fluctuations in our product sales, revenues and earnings in the future. In light of the global economic downturn and budget crises faced by many European countries, we have observed variations in purchasing patterns induced by cost containment measures in Europe. We believe these measures have caused some government agencies and other purchasers to reduce inventory of our products in the distribution channels, which has decreased our revenues and caused fluctuations in our product sales and earnings. We may continue to see this trend in the future.

We may be required to pay significant damages to Merck as a result of a jury's finding that we willfully infringed a patent owned by Merck's Idenix subsidiary.

In December 2013, Idenix, Universita Degli Studi di Cagliari (UDSG), Centre National de la Recherche Scientifique and L'Université Montpellier II sued us in U.S. District Court for the District of Delaware alleging that the commercialization of sofosbuvir will infringe Idenix's U.S. Patent No. 7,608,600 (the '600 patent) and that an interference exists between the '600 patent and our U.S. Patent No. 8,415,322. Also in December 2013, Idenix and UDSG sued us in the U.S. District Court for the District of Massachusetts alleging that the commercialization of sofosbuvir will infringe U.S. Patent Nos. 6,914,054 (the '054 patent) and 7,608,597 (the '597 patent). In June 2014, the court transferred the Massachusetts litigation to the U.S. District Court for the District of Delaware. Idenix was acquired by Merck in August 2014.

A jury trial was held in December 2016 on the '597 patent. In December 2016, the jury found that we willfully infringed the asserted claims of the '597 patent and awarded Idenix $2.54 billion in past damages. The parties will file post-trial motions and briefings during the first quarter of 2017, and we expect the judge to rule in the third or fourth quarter of 2017. Once the judge has issued these rulings, the case will move to the U.S. Court of Appeal for the Federal Circuit.

Although we cannot predict with certainty the ultimate outcome of this litigation, we believe the jury verdict to be in error, and that errors were also made by the court with respect to certain rulings made before and during trial. We expect that our arguments in the forthcoming post-trial motions and on appeal will focus on one or more of the arguments we made to the judge and jury, those being (i) when properly construed, Gilead does not infringe the claims of the '597 patent, (ii) the patent is invalid for failure to properly describe the claimed invention and (iii) the patent is invalid because it does not enable one of skill in the art to practice the claimed invention.

If the jury's verdict is upheld on appeal, our estimated potential loss as of December 31, 2016 would include (i) the $2.54 billion determined by the jury, which represents 10% of our adjusted revenues from sofosbuvir containing products from launch

through August 2016, (ii) approximately $230 million, which represents 10% of our adjusted revenues from sofosbuvir containing products from September 2016 through December 31, 2016, (iii) pre-judgment interest, (iv) enhanced damages of up to three times the sum of (i) and (ii) above as a result of the jury's finding of willfulness, and (v) attorney's fees. Therefore, we estimate the range of possible loss through December 31, 2016 to be between zero and $8.5 billion. This sum excludes (i) an immaterial amount related to pre-judgment sales and interest in January 2017, and (ii) going forward royalties yet to be assessed by the court, which we have estimated would be 10%, but which could be up to three times higher as a result of the jury's finding of willfulness, and which would be payable based on adjusted revenues from sofosbuvir-containing products for the period from January 26, 2017 through expiry of the Idenix patent in May 2021. We expect the judge to rule on the amount of going forward royalties and any enhanced damages in the course of deciding the post-trial motions at a time to be determined by the judge in this case. The court's determination of enhanced damages, if any, can also be appealed.

If the jury's verdict is upheld on appeal, the amount we could be required to pay could be material. The timing and magnitude of the amount of any such payment could have a material adverse impact on our results of operations and stock price.

Our results of operations may be adversely affected by current and potential future healthcare reforms.

Legislative and regulatory changes to government prescription drug procurement and reimbursement programs occur relatively frequently in the United States and foreign jurisdictions. In the United States, we, along with other pharmaceutical manufacturers of branded drug products, are required to pay a portion of an industry fee (also known as the branded prescription drug (BPD) fee), calculated based on select government sales during the year as a percentage of total industry government sales. The amount of the annual BPD fee imposed on the pharmaceutical industry as a whole is $3.0 billion in 2016, which will increase to $4.0 billion in 2017, increase to a peak of $4.1 billion in 2018, and then decrease to $2.8 billion in 2019 and thereafter. Our BPD fee expenses were $270 million in 2016, $414 million in 2015 and $590 million in 2014. The BPD fee is not tax deductible.

There has been extensive discussion about a possible repeal or amendment of The Patient Protection and Affordable Care Act (the Affordable Care Act) or other government action, which could negatively impact the use and/or reimbursement of our products. In January 2017, Congress voted to adopt a budget resolution for fiscal year 2017, that while not law, is widely viewed as the first step toward the passage of legislation that would repeal certain aspects of the Affordable Care Act. Further, on January 20, 2017, the new administration issued an Executive Order directing federal agencies with authorities and responsibilities under the Affordable Care Act to waive, defer, grant exemptions from, or delay the implementation of any provision of the Affordable Care Act that would impose a fiscal burden on states or a cost, fee, tax, penalty or regulatory burden on individuals, healthcare providers, health insurers, or manufacturers of pharmaceuticals or medical devices. Congress could also consider legislation to replace repealed elements of the Affordable Care Act.

In addition, many states have proposed legislation that seeks to indirectly or directly regulate pharmaceutical drug pricing by requiring biopharmaceutical manufacturers to publicly report proprietary pricing information or to place a maximum price ceiling on pharmaceutical products purchased by state agencies. If such proposed legislation is passed, we may experience additional pricing pressures on our products. Similar bills have been previously introduced at the federal level and we expect that additional legislation may be introduced this year. The potential effect of health insurance market destabilization during ongoing repeal and replace discussions, as well as the impact of potential changes to the way the Medicaid program is financed, will likely affect patients' sources of insurance and resultant drug coverage. Discussions continue at the federal level regarding policies that would either allow or require the U.S. government to directly negotiate drug prices with pharmaceutical manufacturers for Medicare patients, require manufacturers to pay higher rebates in Medicare Part D, give states more flexibility on drugs that are covered under the Medicaid program, and other policy proposals that could impact reimbursement for our products. Other discussions have centered on legislation that would permit the re-importation of prescription medications from Canada or other countries. It is difficult to predict the impact, if any, of any such legislation on the use and reimbursement of our products in the United States, including the potential for the importation of generic versions of our products.

In addition, state Medicaid programs could request additional supplemental rebates on our products as a result of the increase in the federal base Medicaid rebate. Private insurers could also use the enactment of these increased rebates to exert pricing pressure on our products, and to the extent that private insurers or managed care programs follow Medicaid coverage and payment developments, the adverse effects may be magnified by private insurers adopting lower payment schedules.

Our existing products are subject to reimbursement from government agencies and other third parties. Pharmaceutical pricing and reimbursement pressures may reduce profitability.

Successful commercialization of our products depends, in part, on the availability of governmental and third-party payer reimbursement for the cost of such products and related treatments in the markets where we sell our products. Government health authorities, private health insurers and other organizations generally provide reimbursement. In the United States, the European Union, Japan and other significant or potentially significant markets for our products and product candidates, government authorities and third-party payers are increasingly attempting to limit or regulate the price of medical products and services. A significant portion of our sales of the majority of our products are subject to significant discounts from list price. See also our risk factor "A

substantial portion of our revenues is derived from sales of products to treat HCV and HIV. If we are unable to maintain or continue increasing sales of these products, our results of operations may be adversely affected."

Patient assistance programs for pharmaceutical products have come under increasing scrutiny by governments, legislative bodies and enforcement agencies. These activities may result in actions that have the effect of reducing prices or harming our business or reputation.

Recently, there has been enhanced scrutiny of company-sponsored patient assistance programs, including insurance premium and co-pay assistance programs and donations to third-party charities that provide such assistance. If we, or our vendors or donation recipients, are deemed to have failed to comply with relevant laws, regulations or government guidance in any of these areas, we could be subject to criminal and civil sanctions, including significant fines, civil monetary penalties and exclusion from participation in government healthcare programs, including Medicare and Medicaid, actions against executives overseeing our business, and burdensome remediation measures.

In February 2016, we received a subpoena from the U.S. Attorney's Office for the District of Massachusetts requesting documents related to our support of 501(c)(3) organizations that provide financial assistance to patients, and for our HCV products, documents concerning our provision of financial assistance to patients. Other companies have disclosed similar inquiries. We are cooperating with this inquiry.

It is possible that any actions taken by the U.S. Department of Justice as a result of this inquiry or any future action taken by federal or local governments, legislative bodies and enforcement agencies could result in civil penalties or injunctive relief, negative publicity or other negative actions that could harm our reputation, reduce demand for our products and/or reduce coverage of our products, including by federal health care programs such as Medicare and Medicaid and state health care programs. If any or all of these events occur, our business and stock price could be materially and adversely affected.

Approximately 36% of our product sales occur outside the United States, and currency fluctuations and hedging expenses may cause our earnings to fluctuate, which could adversely affect our stock price.

Because a significant percentage of our product sales are denominated in foreign currencies, primarily the Euro and Yen, we face exposure to adverse movements in foreign currency exchange rates. When the U.S. dollar strengthens against these foreign currencies, the relative value of sales made in the respective foreign currency decreases. Conversely, when the U.S. dollar weakens against these currencies, the relative value of such sales increases. Overall, we are a net receiver of foreign currencies and, therefore, benefit from a weaker U.S. dollar and are adversely affected by a stronger U.S. dollar.

We use foreign currency exchange forward and option contracts to hedge a percentage of our forecasted international sales, primarily those denominated in the Euro and Yen. We also hedge certain monetary assets and liabilities denominated in foreign currencies, which reduces but does not eliminate our exposure to currency fluctuations between the date a transaction is recorded and the date that cash is collected or paid. Foreign currency exchange, net of hedges, had an unfavorable impact of $498 million on our 2016 product sales compared to 2015 and an unfavorable impact of $737 million on our 2015 revenues compared to 2014.

We cannot predict future fluctuations in the foreign currency exchange rates of the U.S. dollar. If the U.S. dollar appreciates significantly against certain currencies and our hedging program does not sufficiently offset the effects of such appreciation, our results of operations will be adversely affected and our stock price may decline.

Additionally, the expenses that we recognize in relation to our hedging activities can also cause our earnings to fluctuate. The level of hedging expenses that we recognize in a particular period is impacted by the changes in interest rate spreads between the foreign currencies that we hedge and the U.S. dollar.

We face significant competition.

We face significant competition from large global pharmaceutical and biotechnology companies, specialized pharmaceutical firms and generic drug manufacturers. Our products compete with other available products based primarily on efficacy, safety, tolerability, acceptance by doctors, ease of patient compliance, ease of use, price, insurance and other reimbursement coverage, distribution and marketing.

Our HCV products, Epclusa, Harvoni and Sovaldi, compete with Viekira Pak (ombitasvir, paritaprevir and ritonavir tablets co-packaged with dasabuvir tablets) and Viekira XR (dasabuvir, ombitasvir, paritaprevir and ritonavir) marketed by AbbVie Inc. (AbbVie), Zepatier (elbasvir and grazoprevir) marketed by Merck & Co. Inc. (Merck), Daklinza (daclastavir) marketed by Bristol-Myers Squibb (BMS) and Olysio (simeprevir) marketed by Janssen Therapeutics. We expect a new short duration, all-oral direct-acting antiviral product to be launched by a competitor in 2017, which may negatively impact our HCV market share.

Our HIV products compete primarily with products from ViiV, which markets fixed-dose combination products that compete with Descovy, Odefsey, Genvoya, Stribild, Complera/Eviplera, Atripla and Truvada. For example, two products marketed by ViiV, Tivicay (dolutegravir), an integrase inhibitor, and Triumeq, a single-tablet triple-combination antiretroviral regimen, have adversely impacted sales of our HIV products. In addition, lamivudine, marketed by ViiV, competes with emtricitabine, the active pharmaceutical ingredient of Emtriva and a component of Genvoya, Stribild, Complera/Eviplera, Atripla and Truvada. For Tybost, we compete with ritonavir marketed by AbbVie.

We also face competition from generic HIV products. Generic versions of lamivudine and Combivir (lamivudine and zidovudine) are available in the United States and certain other countries. Generic versions of Sustiva (efavirenz), a component of our Atripla, are now available in Canada and Europe and we anticipate competition from generic efavirenz in the United States in December 2017. We have observed some pricing pressure related to the Sustiva component of our Atripla sales. TDF, one of the active pharmaceutical ingredients in Stribild, Complera/Eviplera, Atripla and Truvada, and the main active pharmaceutical ingredient in Viread, is expected to face generic competition in the United States, the European Union and other countries in 2017. In addition, because emtricitabine, the other active pharmaceutical ingredient of Truvada, faced generic competition in the European Union in 2016, Truvada is also expected to face generic competition in the European Union and other countries outside of the United States in 2017.

Our HBV products, Vemlidy, Viread and Hepsera, face competition from Baraclude (entecavir) marketed by BMS as well as generic entecavir. Our HBV products also compete with Tyzeka/Sebivo (telbivudine) marketed by Novartis.

Zydelig competes with Imbruvica (ibrutinib)? marketed by Pharmacyclics LLC (an AbbVie company), Gazyva (obinutuzumab) marketed by Genentech (a member of the Roche Group) and Treanda (bendamustine hydrochloride) marketed by Cephalon, Inc.

Letairis competes with Tracleer (bosentan) and Opsumit (macitentan) marketed by Actelion Pharmaceuticals US, Inc. and also with Adcirca (tadalafil) marketed by United Therapeutics Corporation and Pfizer.

Ranexa competes predominantly with generic compounds from three distinct classes of drugs for the treatment of chronic angina in the United States, including generic and/or branded beta-blockers, calcium channel blockers and long-acting nitrates.

Cayston competes with Tobi (tobramycin inhalation solution) marketed by Novartis.

Tamiflu competes with Relenza (zanamivir) marketed by GSK and products sold by generic competitors.

AmBisome competes with Vfend (voriconazole) marketed by Pfizer and caspofungin, a product developed by Merck that is marketed as Cancidas in the United States and as Caspofungin elsewhere. In addition, we are aware of at least three lipid formulations that claim similarity to AmBisome becoming available outside of the United States. These formulations may reduce market demand for AmBisome. Furthermore, the manufacture of lipid formulations of amphotericin B is very complex and if any of these formulations are found to be unsafe, sales of AmBisome may be negatively impacted by association.

In addition, a number of companies are pursuing the development of technologies which are competitive with our existing products or research programs. These competing companies include specialized pharmaceutical firms and large pharmaceutical companies acting either independently or together with other pharmaceutical companies. Furthermore, academic institutions, government agencies and other public and private organizations conducting research may seek patent protection and may establish collaborative arrangements for competitive products or programs. If any of these competitors gain market share on our products, it could adversely affect our results of operations and stock price.

If significant safety issues arise for our marketed products or our product candidates, our future sales may be reduced, which would adversely affect our results of operations.

The data supporting the marketing approvals for our products and forming the basis for the safety warnings in our product labels were obtained in controlled clinical trials of limited duration and, in some cases, from post-approval use. As our products are used over longer periods of time by many patients with underlying health problems, taking numerous other medicines, we expect to continue to find new issues such as safety, resistance or drug interaction issues, which may require us to provide additional warnings or contraindications on our labels or narrow our approved indications, each of which could reduce the market acceptance of these products.

Regulatory authorities have been moving towards more active and transparent pharmacovigilance and are making greater amounts of stand-alone safety information and clinical trial data directly available to the public through websites and other means, e.g. periodic safety update report summaries, risk management plan summaries and various adverse event data. Safety information, without the appropriate context and expertise, may be misinterpreted and lead to misperception or legal action which may potentially cause our product sales or stock price to decline.

Further, if serious safety, resistance or drug interaction issues arise with our marketed products, sales of these products could be limited or halted by us or by regulatory authorities and our results of operations would be adversely affected.

Our operations depend on compliance with complex FDA and comparable international regulations. Failure to obtain broad approvals on a timely basis or to maintain compliance could delay or halt commercialization of our products.

The products we develop must be approved for marketing and sale by regulatory authorities and, once approved, are subject to extensive regulation by FDA, the European Medicines Agency (EMA) and comparable regulatory agencies in other countries. We are continuing clinical trials for many of our products for currently approved and additional uses. We anticipate that we will file for marketing approval in additional countries and for additional indications and products over the next several years. These products may fail to receive such marketing approvals on a timely basis, or at all.

Further, how we manufacture and sell our products is subject to extensive regulation and review. Discovery of previously unknown problems with our marketed products or problems with our manufacturing, safety reporting or promotional activities may result in restrictions on our products, including withdrawal of the products from the market. If we fail to comply with applicable regulatory requirements, including those related to promotion and manufacturing, we could be subject to penalties including fines, suspensions of regulatory approvals, product recalls, seizure of products and criminal prosecution.

For example, under FDA rules, we are often required to conduct post-approval clinical studies to assess a known serious risk, signals of serious risk or to identify an unexpected serious risk and implement a Risk Evaluation and Mitigation Strategy for our products, which could include a medication guide, patient package insert, a communication plan to healthcare providers or other elements as FDA deems are necessary to assure safe use of the drug, which could include imposing certain restrictions on the distribution or use of a product. Failure to comply with these or other requirements, if imposed on a sponsor by FDA, could result in significant civil monetary penalties and our operating results may be adversely affected.

The results and anticipated timelines of our clinical trials are uncertain and may not support continued development of a product candidate, which would adversely affect our prospects for future revenue growth.

We are required to demonstrate the safety and efficacy of products that we develop for each intended use through extensive preclinical studies and clinical trials. The results from preclinical and early clinical studies do not always accurately predict results in later, large-scale clinical trials. Even successfully completed large-scale clinical trials may not result in marketable products. For example, during 2016 we announced that we terminated our Phase 2 and 2b studies of simtuzumab for the treatment of idiopathic pulmonary fibrosis, NASH and primary sclerosing cholangitis, our Phase 2 and 2/3 studies of GS-5745 for the treatment of Crohn's Disease and ulcerative colitis, our Phase 2 studies of selonsertib for the treatment of pulmonary arterial hypertension and diabetic kidney disease, and our studies of eleclazine for the treatment of cardiovascular diseases, after determining that study data showed insufficient evidence of treatment benefit. In addition, after completion of two Phase 3 studies of momelotinib for the treatment of myelofibrosis, we have decided to terminate development of momelotinib. If any of our product candidates fails to achieve its primary endpoint in clinical trials, if safety issues arise or if the results from our clinical trials are otherwise inadequate to support regulatory approval of our product candidates, commercialization of that product candidate could be delayed or halted. In addition, we may also face challenges in clinical trial protocol design.

If the clinical trials for any of the product candidates in our pipeline are delayed or terminated, our prospects for future revenue growth would be adversely impacted. For example, we face numerous risks and uncertainties with our product candidates, including the single-tablet regimen of bictegravir, emtricitabine and TAF for the treatment of HIV infection; Descovy for PrEP; selonsertib for the treatment of NASH; idelalisib for the treatment of relapsed refractory chronic lymphocytic leukemia; GS-5745 for the treatment of gastric cancer; and filgotinib for the treatment of rheumatoid arthritis, Crohn's disease and ulcerative colitis, each currently in Phase 3 clinical trials, that could prevent completion of development of these product candidates. These risks include our ability to enroll patients in clinical trials, the possibility of unfavorable results of our clinical trials, the need to modify or delay our clinical trials or to perform additional trials and the risk of failing to obtain FDA and other regulatory body approvals. As a result, our product candidates may never be successfully commercialized. Further, we may make a strategic decision to discontinue development of our product candidates if, for example, we believe commercialization will be difficult relative to other opportunities in our pipeline. If these programs and others in our pipeline cannot be completed on a timely basis or at all, then our prospects for future revenue growth may be adversely impacted. In addition, clinical trials involving our commercial products could raise new safety issues for our existing products, which could in turn decrease our revenues and harm our business.

Due to our reliance on third-party contract research organizations to conduct our clinical trials, we are unable to directly control the timing, conduct, expense and quality of our clinical trials.

We extensively outsource our clinical trial activities and usually perform only a small portion of the start-up activities in-house. We rely on independent third-party contract research organizations (CROs) to perform most of our clinical studies, including document preparation, site identification, screening and preparation, pre-study visits, training, program management and bioanalytical analysis. Many important aspects of the services performed for us by the CROs are out of our direct control. If there is any dispute or disruption in our relationship with our CROs, our clinical trials may be delayed. Moreover, in our regulatory submissions, we rely on the quality and validity of the clinical work performed by third-party CROs. If any of our CROs' processes,

methodologies or results were determined to be invalid or inadequate, our own clinical data and results and related regulatory approvals could be adversely affected.

We depend on relationships with other companies for sales and marketing performance, development and commercialization of product candidates and revenues. Failure to maintain these relationships, poor performance by these companies or disputes with these companies could negatively impact our business.

We rely on a number of significant collaborative relationships with major pharmaceutical companies for our sales and marketing performance in certain territories. These include collaborations with Janssen for Odefsey and Complera/Eviplera; BMS for Atripla in the United States, Europe and Canada; F. Hoffmann-La Roche Ltd. (together with Hoffmann-La Roche Inc., Roche) for Tamiflu worldwide; and GSK for ambrisentan in territories outside of the United States. In some countries, we rely on international distributors for sales of Truvada, Viread, Hepsera, Emtriva and AmBisome. Some of these relationships also involve the clinical development of these products by our partners. Reliance on collaborative relationships poses a number of risks, including the risk that:

- we are unable to control the resources our corporate partners devote to our programs or products;
- disputes may arise with respect to the ownership of rights to technology developed with our corporate partners;
- disagreements with our corporate partners could cause delays in, or termination of, the research, development or commercialization of product candidates or result in litigation or arbitration;
- contracts with our corporate partners may fail to provide significant protection or may fail to be effectively enforced if one of these partners fails to perform;
- our corporate partners have considerable discretion in electing whether to pursue the development of any additional products and may pursue alternative technologies or products either on their own or in collaboration with our competitors;
- our corporate partners with marketing rights may choose to pursue competing technologies or to devote fewer resources to the marketing of our products than they do to products of their own development; and
- our distributors and our corporate partners may be unable to pay us, particularly in light of current economic conditions.

Given these risks, there is a great deal of uncertainty regarding the success of our current and future collaborative efforts. If these efforts fail, our product development or commercialization of new products could be delayed or revenues from products could decline.

In addition, Letairis and Cayston are distributed through third-party specialty pharmacies, which are pharmacies specializing in the dispensing of medications for complex or chronic conditions that may require a high level of patient education and ongoing counseling. The use of specialty pharmacies requires significant coordination with our sales and marketing, medical affairs, regulatory affairs, legal and finance organizations and involves risks, including but not limited to risks that these specialty pharmacies will:

- not provide us with accurate or timely information regarding their inventories, patient data or safety complaints;
- not effectively sell or support Letairis or Cayston;
- not devote the resources necessary to sell Letairis or Cayston in the volumes and within the time frames that we expect;
- not be able to satisfy their financial obligations to us or others; or
- cease operations.

We also rely on a third party to administer our Letairis Education and Access Program, the restricted distribution program designed to support Letairis. This third party provides information and education to prescribers and patients on the risks of Letairis, confirms insurance coverage and investigates alternative sources of reimbursement or assistance, ensures fulfillment of the risk management requirements mandated for Letairis by FDA and coordinates and controls dispensing to patients through the third-party specialty pharmacies. Failure of this third party or the specialty pharmacies that distribute Letairis to perform as expected may result in regulatory action from FDA or decreased Letairis sales, either of which would harm our business.

Our success will depend to a significant degree on our ability to defend our patents and other intellectual property rights both domestically and internationally. We may not be able to obtain effective patents to protect our technologies from use by competitors and patents of other companies could require us to stop using or pay for the use of required technology.

Patents and other proprietary rights are very important to our business. Our success will depend to a significant degree on our ability to:

- obtain patents and licenses to patent rights;

- preserve trade secrets;
- defend against infringement and efforts to invalidate our patents; and
- operate without infringing on the intellectual property of others.

If we have a properly drafted and enforceable patent, it can be more difficult for our competitors to use our technology to create competitive products and more difficult for our competitors to obtain a patent that prevents us from using technology we create. As part of our business strategy, we actively seek patent protection both in the United States and internationally and file additional patent applications, when appropriate, to cover improvements in our compounds, products and technology.

We have a number of U.S. and foreign patents, patent applications and rights to patents related to our compounds, products and technology, but we cannot be certain that issued patents will be enforceable or provide adequate protection or that pending patent applications will result in issued patents. Patent applications are confidential for a period of time before a patent is issued. As a result, we may not know if our competitors filed patent applications for technology covered by our pending applications or if we were the first to invent or first to file an application directed toward the technology that is the subject of our patent applications. Competitors may have filed patent applications or received patents and may obtain additional patents and proprietary rights that block or compete with our products. In addition, if competitors file patent applications covering our technology, we may have to participate in litigation, interference or other proceedings to determine the right to a patent. Litigation, interference or other proceedings are unpredictable and expensive, such that, even if we are ultimately successful, our results of operations may be adversely affected by such events.

For example, TDF, one of the active pharmaceutical ingredients in Stribild, Complera/Eviplera, Atripla and Truvada, and the main active pharmaceutical ingredient in Viread, is expected to face generic competition in the United States, the European Union and other countries in 2017. In addition, because emtricitabine, the other active pharmaceutical ingredient of Truvada, faced generic competition in the European Union in 2016, Truvada is also expected to face generic competition in the European Union and other countries outside of the United States in 2017. The entry of these generic products may lead to market share and price erosion and have a negative impact on our business and results of operations. In addition, patents do not cover the ranolazine compound, the active ingredient of Ranexa. Instead, when it was discovered that only a sustained-release formulation of ranolazine would achieve therapeutic plasma levels, patents were obtained on those formulations and the characteristic plasma levels they achieve. Patents do not cover the active ingredients in AmBisome.

We may obtain patents for certain products many years before marketing approval is obtained for those products. Because patents have a limited life, which may begin to run prior to the commercial sale of the related product, the commercial value of the patent may be limited. However, we may be able to apply for patent term extensions or supplementary protection certificates in some countries.

Generic manufacturers have sought, and may continue to seek, FDA approval to market generic versions of our products through an abbreviated new drug application (ANDA), the application form typically used by manufacturers seeking approval of a generic drug. See a description of our ANDA litigation in Note 12, Commitments and Contingencies - Legal Proceedings of the Notes to Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K and risk factor entitled “Litigation with generic manufacturers has increased our expenses which may continue to reduce our earnings. If we are unsuccessful in all or some of these lawsuits, some or all of our claims in the patents may be narrowed or invalidated and generic versions of our products could be launched prior to our patent expiry.” beginning on page 39.

Our success depends in large part on our ability to operate without infringing upon the patents or other proprietary rights of third parties.

If we infringe the valid patents of third parties, we may be prevented from commercializing products or may be required to obtain licenses from these third parties. We may not be able to obtain alternative technologies or any required license on reasonable terms or at all. If we fail to obtain these licenses or alternative technologies, we may be unable to develop or commercialize some or all of our products. For example, we are aware of patents that may relate to our operation of LEAP, our restricted distribution program designed to support Letairis and we are aware of patents and patent applications owned by other parties that may claim to cover the use of sofosbuvir. We are also aware of U.S. Patent No. 9044509 assigned to the U.S. Department of Health and Human Services that purports to claim a process of protecting a primate host from infection by an immunodeficiency retrovirus by administering a combination of emtricitabine and tenofovir or TDF prior to exposure of the host to the immunodeficiency retrovirus. We have been in contact with the U.S. Department of Health and Human Services about the scope and relevance of the patent. See also a description of our litigation regarding sofosbuvir in Note 12, Commitments and Contingencies - Legal Proceedings of the Notes to Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K and the risk factor entitled “If any party is successful in establishing exclusive rights to Epclusa, Harvoni and/or Sovaldi, our expected revenues and earnings from the sale of those products could be adversely affected” beginning on page 36.

Furthermore, we also rely on unpatented trade secrets and improvements, unpatented internal know-how and technological innovation. For example, a great deal of our liposomal manufacturing expertise, which is a key component of our liposomal

technology, is not covered by patents but is instead protected as a trade secret. We protect these rights mainly through confidentiality agreements with our corporate partners, employees, consultants and vendors. These agreements provide that all confidential information developed or made known to an individual during the course of their relationship with us will be kept confidential and will not be used or disclosed to third parties except in specified circumstances. In the case of employees, the agreements provide that all inventions made by an individual while employed by us will be our exclusive property. We cannot be certain that these parties will comply with these confidentiality agreements, that we have adequate remedies for any breach or that our trade secrets will not otherwise become known or be independently discovered by our competitors. Under some of our R&D agreements, inventions become jointly owned by us and our corporate partner and in other cases become the exclusive property of one party. In certain circumstances, it can be difficult to determine who owns a particular invention and disputes could arise regarding those inventions. If our trade secrets or confidential information become known or independently discovered by competitors or if we enter into disputes over ownership of inventions, our business and results of operations could be adversely affected.

If any party is successful in establishing exclusive rights to Epclusa, Harvoni and/or Sovaldi, our expected revenues and earnings from the sale of those products could be adversely affected.

We own patents and patent applications that claim sofosbuvir (Sovaldi) as a chemical entity and its metabolites and the fixed-dose combinations of ledipasvir and sofosbuvir (Harvoni) and sofosbuvir and velpatasvir (Epclusa). Third parties may have, or may obtain rights to, patents that allegedly could be used to prevent or attempt to prevent us from commercializing Epclusa, Harvoni or Sovaldi. For example, we are aware of patents and patent applications owned by other parties that may be alleged by such parties to cover the use of Epclusa, Harvoni and Sovaldi. We cannot predict the ultimate outcome of intellectual property claims related to Epclusa, Harvoni or Sovaldi, and we have spent, and will continue to spend, significant resources defending against these claims. If third parties successfully obtain valid and enforceable patents, and successfully prove infringement of those patents by Epclusa, Harvoni and/or Sovaldi, we could be prevented from selling sofosbuvir unless we were able to obtain a license under such patents. Such a license may not be available on commercially reasonable terms or at all.

Interference Proceedings and Litigation with Idenix Pharmaceuticals, Inc. (Idenix), Universita Degli Studi di Cagliari (UDSG), Centre National de la Recherche Scientifique and L'Universite Montpellier II

In February 2012, we received notice that the U.S. Patent and Trademark Office (USPTO) had declared Interference No. 105,871 (First Idenix Interference) between our U.S. Patent No. 7,429,572 (the '572 patent) and Idenix's pending U.S. Patent Application No. 12/131,868 to determine who was the first to invent certain nucleoside compounds. In January 2014, the USPTO Patent Trial and Appeal Board (PTAB) determined that Pharmasset and not Idenix was the first to invent the compounds. Idenix has appealed the PTAB's decisions to the U.S. District Court for the District of Delaware, which has stayed that appeal pending the outcome of the appeal of the interference involving Idenix's U.S. Patent No. 7,608,600 (the '600 patent) as described below.

In December 2013, after receiving our request to do so, the USPTO declared Interference No. 105,981 (Second Idenix Interference) between our pending U.S. Patent Application No. 11/854,218 and Idenix's U.S. Patent No. 7,608,600 (the '600 patent). The '600 patent includes claims directed to methods of treating HCV with nucleoside compounds. In March 2015, the PTAB determined that Pharmasset and not Idenix was the first to invent the claimed methods of treating HCV. Idenix appealed this decision in both the U.S. District Court for the District of Delaware and the U.S. Court of Appeal for the Federal Circuit (CAFC). The CAFC heard oral arguments in September 2016, and we are awaiting its decision. We filed a motion to dismiss the appeal in Delaware, and the court has stayed the appeal relating to the Second Idenix Interference.

We believe that the Idenix claims involved in the First and Second Idenix Interferences, and similar U.S. and foreign patents claiming the same compounds, metabolites and uses thereof, are invalid. As a result, we filed an Impeachment Action in the Federal Court of Canada to invalidate Idenix Canadian Patent No. 2,490,191 (the '191 patent), which is the Canadian patent that corresponds to the '600 patent. Idenix asserted that the commercialization of Sovaldi in Canada will infringe its '191 patent and that our Canadian Patent No. 2,527,657, corresponding to our '572 patent, is invalid. In November 2015, the Canadian court held that Idenix's patent is invalid and that our patent is valid. Idenix appealed the decision to the Canadian Federal Court of Appeal in November 2015. The appeal hearing was held in January 2017 and we are awaiting the decision.

We filed a similar legal action in Norway in the Oslo District Court seeking to invalidate Idenix's Norwegian patent corresponding to the '600 patent. In September 2013, Idenix filed an invalidation action in the Norwegian proceedings against our Norwegian Patent No. 333700, which corresponds to the '572 patent. In March 2014, the Norwegian court found all claims in the Idenix Norwegian patent to be invalid and upheld the validity of all claims in our patent. Idenix appealed the decision to the Norwegian Court of Appeal. In April 2016, the Court of Appeal issued its decision invalidating the Idenix patent and upholding our patent. Idenix has not filed a further appeal.

In January 2013, we filed a legal action in the Federal Court of Australia seeking to invalidate Idenix's Australian patent corresponding to the '600 patent. In April 2013, Idenix asserted that the commercialization of Sovaldi in Australia infringes its Australian patent corresponding to the '600 patent. In March 2016, the Australian court revoked Idenix's Australian patent. Idenix has appealed this decision. The appeal hearing was held in November 2016 and we are awaiting the decision.

EXHIBIT 5

FISH
FISH & RICHARDSON

Clients & Cases

Representative Clients

Biogen Inc.
Life Sciences

Genzyme Corporation
Life Sciences

Repligen Corp.
Life Sciences

FISH
FISH & RICHARDSON

Fish Cases

Innovative Legal Strategies for a Branded Drug

Litigation, Hatch-Waxman, Patent Litigation

United States Court of Appeals for the Federal Circuit

Back to Case Listing

In a series of cases beginning in 2002, Fish successfully navigated for Allergan a path to lasting exclusivity for its sight-saving glaucoma drug, Alphagan® P 0.1%. These cases culminated when the U.S. Supreme Court denied a petition for a writ of certiorari in 2012 filed by generic drug maker Apotex. That petition grew out of a trial win by Fish in the District of Delaware in 2009, when that court concluded that five patents protecting Alphagan® P were valid and infringed. The Federal Circuit Court of Appeals affirmed four of the five patent's validity on appeal.

> "Fish's innovative strategies and aggressive enforcement led the way in protecting the hard-won intellectual property that protects Allergan Alphagan® P 0.1%, which today enjoys market exclusivity until the last of its patents expires in 2022. "

In-Depth

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These cases culminated when the U.S. Supreme Court denied a petition for a writ of certiorari in in 2012 filed by generic drug maker Apotex. That petition grew out of a trial win by Fish in the District of Delaware in 2009, when that court concluded that five patents protecting Alphagan® P were valid and infringed. The Federal Circuit Court of Appeals affirmed four of the five patent's validity on appeal.

But, even before that, Allergan had tapped Fish to lead the charge on protecting the tens of millions in investment that Alphagan® P represents. In 2004 through 2006, Fish led a case against generic drug applicant Alcon that culminated in settlement the morning of trial. The non-confidential portions of settlement resulted in three additional years of exclusivity for Alphagan P 0.15% (until 2009), royalties for Allergan on Alcon's generic drug sales of Alphagan® P 0.15%, and market exclusivity for Allergan on Alphagan® P 0.1%.

And still earlier, from 2002 to 2003, Fish litigated for Allergan cases and FDA citizen's petitions involving the predecessor drug to Alphagan® P, Alphagan®. That case resulted in ground-breaking opinions about the permissible assertion of off-label patents under the Hatch-Waxman Act, something that is still a hot button issue today, over a decade later.

Fish's innovative strategies and aggressive enforcement led the way in protecting the hard-won intellectual property that protects Allergan Alphagan® P 0.1%, which today enjoys market exclusivity until the last of its patents expires in 2022.

EXHIBIT 6

SANOFI

SANOFI GENZYME

Over the years, Sanofi Genzyme has focused on several medical areas, while remaining unified by a few key principles: addressing unmet medical needs, exploring innovative technologies and treatment approaches, and improving the lives of patients worldwide.

Sanofi Genzyme is the specialty care global business unit of Sanofi, focused on rare diseases, multiple sclerosis, immunology, and oncology. Our areas of focus establish a structure for developing and marketing our products - but we encourage synergies across the company and believe it is this sharing of knowledge, ideas, and resources that leads to our most innovative work.

Rare Diseases

Focusing on uncommon and underserved medical conditions, our Rare Disease franchise is committed to empowering the lives of patients with rare diseases by offering sustainable, transformative healthcare options.

More

Multiple Sclerosis

We are committed to being a long-term partner to the MS community by working to deliver scientific advancements that will have a significant impact on the unmet needs of people living with MS.

More

Immunology

Expanding our research focus through a collaboration with Regeneron, we are targeting unmet needs in immune diseases including atopic dermatitis, rheumatoid arthritis, asthma, and nasal polyposis, and eosinophilic esophagitis.

More

Oncology

We have a strong heritage in oncology and are working to expand our contributions in the treatment of cancer by building a pipeline of future treatments in immuno-oncology through our own research and partnerships.

More

Last Updated: 9/22/2017
GZUS.GZ.16.10.2187

EXHIBIT 7

Should Gilead Sciences Be Worried About Allergan?

Gilead Sciences might want to pay attention to Allergan's aggressive expansion of its NASH program.

Keith Speights (TMFFishBiz)
Apr 23, 2017 at 11:41AM

"The next hepatitis C."

That's what another liver disease, non-alcoholic steatohepatitis (NASH), has been called. The global market for NASH drugs could be $40 billion annually -- and there are no approved treatments for the disease. **Gilead Sciences** (NASDAQ:GILD) is sorely in need of something beyond hepatitis C, with sliding sales of its hep-C drugs Harvoni and Sovaldi.

Gilead has high expectations for its late-stage NASH candidate GS-4997. But should the big biotech be worried that **Allergan** (NYSE:AGN) could dominate NASH like Gilead has dominated hepatitis C and HIV?

IMAGE SOURCE: GETTY IMAGES.

Late-stage players

Like Gilead, Allergan has its eyes on the potentially lucrative NASH market. The Ireland-based drugmaker acquired Tobira Therapeutics last year, picking up two experimental NASH drugs -- cenicriviroc (CVC) and evogliptin.

Evogliptin is only in an early stage study for the NASH indication, so Gilead probably isn't too concerned at this point about how it might threaten prospects for GS-4997. However, CVC is in a late-stage study. Allergan expects to complete final data collection for the primary outcome of fibrosis improvement in July 2019. That's earlier than Gilead's projected January 2020 date for completing its late-stage study of the primary outcome measure for GS-4997.

A couple of other companies also have late-stage NASH candidates with similar head starts over Gilead. **Intercept Pharmaceuticals** (NASDAQ:ICPT) expects to report results from its phase 3 study of obeticholic acid (OCA) in treating NASH in 2019. French drugmaker **Genfit** (NASDAQOTH:GNFTF) should be on track to also announce late-stage results for its experimental NASH treatment, elafibranor, around the same time.

Combinations could be key

Some experts think that one drug by itself might not be enough to most effectively treat NASH. I spoke with Genfit's COO and chief scientific officer, Dean Hume, several months

ago. He thought it was likely that NASH treatment will ultimately involve combination therapies.

Allergan seems to agree. The company recently announced a collaboration with **Novartis** (NYSE:NVS) to conduct a phase 2b study of its CVC and Novartis' FXR agonist in treating NASH. Allergan's chief research and development officer, David Nicholson, said that the deal with Novartis allows both companies "to focus on multi-therapy treatment, which is expected to be the most likely approach based on the multi-factorial aspects" of NASH.

Does the Novartis collaboration potentially give Allergan a leg up over Gilead? Probably not. Gilead has its own phase 2 study evaluating a combination of GS-4997, FXR agonist GS-9674, and ACC inhibitor GS-0976 underway. The study is expected to wrap up later this year.

Apples-to-oranges comparisons

It's difficult to compare all of these late-stage experimental drugs right now. We do know a few things based on earlier clinical results, though.

In Gilead's phase 2 study of GS-4997, 43% of patients taking an 18 mg dose of the drug experienced significant fibrosis improvement of at least one stage from baseline. There weren't any serious adverse events, with the most common side effects being headache, nausea and sinusitis.

Prior to its acquisition by Allergan, Tobira reported results from a phase 2 study showing that 20% of patients taking CVC for one year saw an improvement in fibrosis by at least one stage without worsening of NASH. However, the study didn't meet the primary endpoint of a two-point reduction in the NAFLD activity score, a measure developed to numerically quantify progression of NASH. The most common adverse events were fatigue and diarrhea.

As for Intercept, phase 2 results for OCA in treating NASH showed 38% of patients taking the highest dosage (40 mg) of the drug experienced a two-point reduction in the NAFLD activity score. However, the improvement was only statistically significant by a small margin. Intercept also reported a relatively high number of patient discontinuations because of pruritis (itchiness).

Genfit's elafibranor didn't meet the primary outcome of NASH resolution without worsening fibrosis in a phase 2 study. But the company saw a very high placebo effect, especially in patients with early cases of NASH. Patients with more advanced NASH conditions at baseline experienced much better results from taking elafibranor. There were no serious

adverse events, with the most common side effects being relatively mild gastrointestinal issues.

Could you argue that Gilead's GS-4997 had the best overall phase 2 results? Perhaps, but looking at all of these studies is like comparing apples and oranges. Genfit is the only drugmaker to show NASH resolution, but its results come with an asterisk due to the high number of patients on placebo also experiencing NASH resolution.

Up for grabs

So should Gilead Sciences worry about Allergan? Yes and no.

The big biotech would certainly prefer to be first to market with the most effective NASH treatment of all. If all goes well with their late-stage studies, Intercept, Genfit, and Allergan will probably beat Gilead to market. From that standpoint, Gilead needs to be at least somewhat concerned about all three rivals.

However, the first to market might not be the biggest winner in NASH. It will come down to efficacy and safety. Allergan's CVC could prove better than Gilead's drug on both fronts, but it might not.

There probably will be plenty of room for multiple drugs to become huge winners. As is the case with rheumatoid arthritis, the potential size of the NASH market is large enough to accommodate several blockbuster drugs. And the likelihood that combo therapies will prove to be most effective provides even more room for multiple companies to succeed.

And if a real reason for Gilead to worry emerges, there's a simple solution. Gilead could always just buy its primary rival -- whoever that might be.

Keith Speights owns shares of Gilead Sciences. The Motley Fool owns shares of and recommends Gilead Sciences. The Motley Fool has the following options: short June 2017 $70 calls on Gilead Sciences. The Motley Fool has a disclosure policy.

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AUTHOR

Keith Speights
(TMFFishBiz)

Keith began writing for the Fool in 2012 and focuses primarily on healthcare investing topics. His background includes serving in management and consulting for the healthcare technology, health insurance, medical device, and pharmacy benefits management industries.

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ARTICLE INFO

Apr 23, 2017 at 11:41AM

Health Care

STOCKS

Novartis
NYSE:NVS
$83.96 $0.29 (-0.34%)

Gilead Sciences
NASDAQ:GILD
$71.64 $0.84 (-1.16%)

Allergan
NYSE:AGN
$163.58 $-1.04 (-0.63%)

ICPT

Intercept Phar…
NASDAQ:ICPT
$58.42 $-4.29 (-6.84%)

GNFT

GENEFIT
NASDAQOTH:GNFTF
$28.47 $0.52 (-1.78%)

EXHIBIT 8

From: Lisa Greenwald-Swire
To: Kanchana W. Leung
Cc: Nancy Ly; Christine Chin; Margaret Trevino; APS Outgoing
Subject: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)
Date: Thursday, December 21, 2017 4:58:15 PM

Dear Kanch,

In follow up to my below email, I write to inform you that Gilead wishes to keep in place the Board's standard protective order and does not agree to remove the AEO designation.

Lisa

Lisa Greenwald-Swire :: Principal :: Fish & Richardson P.C.
500 Arguello Street Suite 500, Redwood City, CA 94063
650 839 5198 direct :: lgs@fr.com
fr.com :: www.FishTMCopyrightBlog.com

From: Lisa Greenwald-Swire
Sent: Thursday, December 21, 2017 9:16 AM
To: Kanchana W. Leung <Kanchana@gileadcapital.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; Margaret Trevino <trevino@fr.com>; APS Outgoing <APSO@fr.com>
Subject: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Kanch,

It is a fact that our client is shut down for the holidays. As we mentioned, we are working on getting back to you regarding this issue.

Lisa

Lisa Greenwald-Swire :: Principal :: Fish & Richardson P.C.
500 Arguello Street Suite 500, Redwood City, CA 94063
650 839 5198 direct :: lgs@fr.com
fr.com :: www.FishTMCopyrightBlog.com

From: Kanchana W. Leung [mailto:Kanchana@gileadcapital.com]
Sent: Wednesday, December 20, 2017 9:06 AM
To: Lisa Greenwald-Swire <Greenwald-Swire@fr.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; Margaret Trevino <trevino@fr.com>; APS Outgoing <APSO@fr.com>
Subject: RE: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Lisa,

We last met and conferred on December 12th. While I acknowledge it can be difficult to get a hold of certain people around the holidays, I find it difficult to believe that your client—a multi-billion dollar company, as you've repeatedly stated--"shuts down" during December or that it takes you more than 8 days to get a response from your client, which has a large legal department. In any event, please give me a definitive answer by no later than the close of business tomorrow.

Regards,
Kanch

From: Lisa Greenwald-Swire [mailto:Greenwald-Swire@fr.com]
Sent: Wednesday, December 20, 2017 11:54 AM
To: Kanchana W. Leung <Kanchana@gileadcapital.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; Margaret Trevino <trevino@fr.com>; APS Outgoing <APSO@fr.com>
Subject: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Kanch,

As we discussed, our client, like most companies, are shut down for the holidays. Nevertheless, we are working on getting back to you regarding this issue as soon as practicable.

Truly,

Lisa

Lisa Greenwald-Swire :: Principal :: Fish & Richardson P.C.
500 Arguello Street Suite 500, Redwood City, CA 94063
650 839 5198 direct :: lgs@fr.com
fr.com :: www.FishTMCopyrightBlog.com

From: Kanchana W. Leung [mailto:Kanchana@gileadcapital.com]
Sent: Wednesday, December 20, 2017 7:06 AM
To: Lisa Greenwald-Swire <Greenwald-Swire@fr.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; Margaret Trevino <trevino@fr.com>; APS Outgoing <APSO@fr.com>
Subject: RE: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

How should I interpret your silence? Will I need to make a motion?

From: Kanchana W. Leung
Sent: Monday, December 18, 2017 5:19 PM
To: Lisa Greenwald-Swire <Greenwald-Swire@fr.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; Margaret Trevino <trevino@fr.com>; APS Outgoing <APSO@fr.com>
Subject: Re: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Lisa,

Please let me know your client's current position regarding the protective order.

Best regards,
Kanch

Sent from my iPhone

On Dec 11, 2017, at 11:50 AM, Lisa Greenwald-Swire <Greenwald-Swire@fr.com> wrote:

> Dear Kanch,
>
> Are you available on Tuesday at 1pm PST / 4pm EST?
>
> Truly,
> Lisa
>
> **Lisa Greenwald-Swire** :: Principal :: Fish & Richardson P.C.
> 500 Arguello Street Suite 500, Redwood City, CA 94063
> 650 839 5198 direct :: lgs@fr.com
> fr.com :: www.FishTMCopyrightBlog.com
>
> ---
>
> **From:** Kanchana W. Leung [mailto:Kanchana@gileadcapital.com]
> **Sent:** Friday, December 08, 2017 9:48 AM
> **To:** Lisa Greenwald-Swire <Greenwald-Swire@fr.com>
> **Cc:** Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; Margaret Trevino <trevino@fr.com>; APS Outgoing <APSO@fr.com>
> **Subject:** RE: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)
>
> Dear Lisa,
>
> As you are likely aware, the determinative legal issue is not my access to GSI's trade secret/commercially sensitive information, but whether or not I am involved in the competitive decision-making of Gilead. I am not. Your skepticism appears to be based solely on my titles. Therefore, I think it would be worthwhile to have a call to discuss my work functions at Gilead so you can re-evaluate your position.
>
> We do not accept your proposal to delay the ultimate determination of the issue because the legal standard is not based on the nature of the requests (though we both recognized that the requests would bear on the issue of burden).
>
> Please let me know at what time you can get on a call today or Monday/Tuesday. I would like to have the issue resolved by the end of next week. If necessary, we can call the Interlocutory Attorney together afterwards, or I can reach out to her solely to find out times in her schedule that she can hear our discovery dispute.
>
> Best regards,
> Kanch

Kanchana Wangkeo Leung
Gilead Capital
Office: (646) 693-6372
Cell: (917) 587-2663
kanchana@gileadcapital.com

From: Lisa Greenwald-Swire [mailto:Greenwald-Swire@fr.com]
Sent: Friday, December 8, 2017 12:05 PM
To: Kanchana W. Leung <Kanchana@gileadcapital.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; Margaret Trevino <trevino@fr.com>; APS Outgoing <APSO@fr.com>
Subject: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Kanch,

My apologies for the delayed response. We believe that the issue here surrounds your access to Gilead's AEO (trade secret/commercially sensitive) information, contrary to your email regarding confidential documents. We are skeptical that you are not involved in GCL's competitive decision making activities as you are one of only four partners at GCL. Indeed, you serve as GCL's Chief Legal Officer, Chief Compliance Officer, and Chief Operating Officer. To allow you access to Gilead's trade secret/commercially sensitive information presents an unacceptable risk to our client.

As mentioned earlier, we propose leaving in place the Board's standard protective order because whether or not this will be an issue depends on the type of information GCL will seek in discovery.

If you feel a call will be fruitful, we're happy to jump on the line again.

Truly,
Lisa

Lisa Greenwald-Swire :: Principal :: Fish & Richardson P.C.
500 Arguello Street Suite 500, Redwood City, CA 94063
650 839 5198 direct :: lgs@fr.com
fr.com :: www.FishTMCopyrightBlog.com

From: Kanchana W. Leung [mailto:Kanchana@gileadcapital.com]
Sent: Tuesday, December 05, 2017 8:48 AM
To: Lisa Greenwald-Swire <Greenwald-Swire@fr.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; Margaret Trevino <trevino@fr.com>; APS Outgoing <APSO@fr.com>
Subject: RE: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Lisa,

I was prepared to discuss with you the fact that I am not involved in the competitive-decision making of Gilead and therefore should not be barred from viewing confidential documents solely on the basis of my status as in-house. I'm still prepared to have that discussion if you think it would be productive. If you think we are already at an impasse, I would like to schedule a time with you on Friday to call the Interlocutory Attorney to raise this dispute.

Best regards,
Kanch

From: Lisa Greenwald-Swire [mailto:Greenwald-Swire@fr.com]
Sent: Tuesday, December 5, 2017 11:01 AM
To: Kanchana W. Leung <Kanchana@gileadcapital.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; Margaret Trevino <trevino@fr.com>; APS Outgoing <APSO@fr.com>
Subject: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Kanch,

Gilead will not agree to your request to remove the Confidential-For Attorneys' Eyes Only designation from the Board's standard protective order. As discussed during the discovery conference, we do not believe that you, as in-house legal counsel for GCL, should be privy to Gilead's trade secret/commercially sensitive information. However, we appreciate that the relevance of this issue hinges on the types of information GCL will seek in discovery. As discussed, we propose leaving in place the Board's standard protective order and revisiting the issue after the parties propound written discovery.

Note that the TBMP has contemplated this issue for cases involving in-house legal counsel and AEO information. Specifically, "[t]he financial burden of retaining either legal counsel in the case of a pro se litigant or outside legal counsel in the case of in-house counsel does not constitute good cause to amend the Board's protective order to remove the restriction with respect to Confidential – For Attorneys' Eyes Only (trade secret/commercially sensitive) information." TBMP 412.02(b).

Also, as promised, attached please find F&R's Production Data Delivery Specification with regard to electronic information.

Please let us know if you have any questions. We are happy to discuss.

Truly,
Lisa

Lisa Greenwald-Swire :: Principal :: Fish & Richardson P.C.
500 Arguello Street Suite 500, Redwood City, CA 94063
650 839 5198 direct :: lgs@fr.com
fr.com :: www.FishTMCopyrightBlog.com

From: Kanchana W. Leung [mailto:Kanchana@gileadcapital.com]
Sent: Tuesday, December 5, 2017 7:19 AM
To: Lisa Greenwald-Swire <Greenwald-Swire@fr.com>; Margaret Trevino <trevino@fr.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; APS Outgoing <APSO@fr.com>
Subject: RE: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Lisa:

It has been two weeks since our last meet-and-confer, in which we had agreed to revisit the topic of the protective order after Thanksgiving. I've requested a follow-up call twice in order to resolve the issue. I would appreciate the courtesy of a response.

Best regards,
Kanch

From: Kanchana W. Leung
Sent: Friday, December 1, 2017 10:15 AM
To: 'Lisa Greenwald-Swire' <Greenwald-Swire@fr.com>; Margaret Trevino <trevino@fr.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; APS Outgoing <APSO@fr.com>
Subject: RE: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Lisa,

Can we circle back about the protective order early next week? Please let me know when you are available.

Thanks,
Kanch

From: Lisa Greenwald-Swire [mailto:Greenwald-Swire@fr.com]
Sent: Tuesday, November 7, 2017 2:09 PM
To: Kanchana W. Leung <Kanchana@gileadcapital.com>; Margaret Trevino <trevino@fr.com>
Cc: Nancy Ly <ly@fr.com>; Christine Chin <cchin@fr.com>; APS Outgoing <APSO@fr.com>
Subject: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Kanchana,

I think this should work. Margaret, can you please send us a calendar invite for 11am PST / 2pm EST on 11/20?

Truly,
Lisa

Lisa Greenwald-Swire :: Fish & Richardson P.C.

650 839 5198 direct :: lgs@fr.com

From: Kanchana W. Leung [mailto:Kanchana@gileadcapital.com]
Sent: Tuesday, November 07, 2017 7:38 AM
To: Lisa Greenwald-Swire <Greenwald-Swire@fr.com>
Cc: Nancy Ly <ly@fr.com>; Margaret Trevino <trevino@fr.com>; Christine Chin <cchin@fr.com>; APS Outgoing <APSO@fr.com>
Subject: RE: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Hi Lisa,

I am relatively open on Monday, November 20. How is 2 p.m. EST?

Best regards,
Kanch

From: Lisa Greenwald-Swire [mailto:Greenwald-Swire@fr.com]
Sent: Monday, November 6, 2017 7:42 PM
To: Kanchana W. Leung <Kanchana@gileadcapital.com>
Cc: Nancy Ly <ly@fr.com>; Margaret Trevino <trevino@fr.com>; Christine Chin <cchin@fr.com>; APS Outgoing <APSO@fr.com>
Subject: Gilead Sciences, Inc. v. Gilead Capital LP - Pending Opposition (F&R Refs.: 36583-0044PP1, -0045PP1)

Dear Kanchana,

As you may recall, we have until November 23 to have our Discovery Conference. Please let me know when you are available to schedule a call.

Truly,
Lisa

Lisa Greenwald-Swire :: Principal :: Fish & Richardson P.C.
500 Arguello Street Suite 500, Redwood City, CA 94063
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fr.com :: www.FishTMCopyrightBlog.com

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