



**MEMORANDUM OF UNDERSTANDING
CONCERNING COOPERATION BETWEEN
THE U.S. SECURITIES AND EXCHANGE COMMISSION AND
THE U.S. DEPARTMENT OF LABOR**



To facilitate the ongoing consultation and communication between the U.S. Department of Labor's Employee Benefits Security Administration (DOL) and the U.S. Securities and Exchange Commission (SEC) concerning matters of mutual interest, the agencies have reached this Memorandum of Understanding (MOU) setting forth a framework for consultation and exchange of information. By this MOU, the agencies formally recognize their effective and informal working relationships and their expectation of continued cooperation.

1. *Regular Meetings:* The DOL and SEC staffs shall have periodic meetings to discuss matters of mutual interest, including for example, regulatory requirements that impact each agency's responsibilities, examination findings and trends, enforcement cases, and any other matters that the SEC and DOL staffs believe would be of interest to the other regulator in fulfilling their respective regulatory responsibilities.
2. *Points of Contact:* To facilitate communications between the SEC and DOL staffs in the agencies' field offices, the DOL and SEC staffs shall designate persons to serve as points of contact for each regulator in each of the SEC and DOL regional offices and respective headquarters office. Points of contact will assist the SEC and DOL staffs in communications with respect to matters of mutual interest.
3. *Training:* The agencies recognize that it is worthwhile to cross-train appropriate staff in order to enhance each agency's understanding of the other's mission and investigative jurisdiction so that our resources can effectively protect the public. Each agency will seek to identify periodic internal training opportunities which may be appropriate for the other agency's staff to attend. These training programs may be non-public, and participants may be obliged to maintain the confidentiality of program materials.
4. *DOL Access to Non-Public SEC Examination Information:* To facilitate the exchange of examination-related information concerning investment advisers or other firms of mutual interest to the SEC and the DOL, the SEC grants DOL standing access to non-public examination information with respect to examinations that SEC staff determine are relevant to DOL's mission, pursuant to the following safeguards:
 - *DOL Assurances of Confidentiality:* To the extent permitted by law, the DOL staff will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of the files to which access is granted and information derived therefrom. The files and information may, however, be used for the purpose of the DOL's investigation and/or proceeding and any resulting proceedings. They also may be transferred to criminal law enforcement authorities. The DOL staff will notify SEC staff in writing of any such transfer and use its best efforts to obtain appropriate assurances of confidentiality. The DOL staff will: make no public disclosure of the files or information without the prior written approval of the SEC staff; notify SEC staff in writing of any legally enforceable demand for the files or

information prior to complying with the demand and assert all such legal exemptions or privileges on the SEC's behalf as SEC staff may request; and not grant any other demand or request for the files or information without prior written notice to, and lack of objection by, SEC staff.

- *Right to Financial Privacy Act of 1978 ("RFPA")*: The files and information provided by the SEC staff to the DOL staff pursuant to this standing grant of access may from time to time contain "financial records" of "customers" of "financial institutions," as those terms are defined in RFPA [12 U.S.C. §§ 3401-22]. In the event the files and information shared pursuant to this standing grant of access contain such information, the DOL will represent that it has reason to believe that the files and information are relevant to its examination, investigation, and/or proceeding.

5. *SEC and DOL Access to Non-Public SEC and DOL Enforcement Information*: To facilitate the exchange of enforcement-related information concerning investment advisers or other firms of mutual interest to the SEC and the DOL, the agencies intend to honor each other's requests for enforcement information to the extent permitted by law and in accordance with the following procedures:

- In order to streamline the access request process, the SEC and DOL staffs will provide each other with a form letter to request access to investigative files and enforcement information of the other agency ("access request letters"). These access request letters will specify the specific enforcement matter and will contain the same assurances of confidentiality as contained in this Section 5.
- *SEC and DOL Assurances of Confidentiality*: To the extent permitted by law, the SEC and DOL staffs will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of the files to which access is granted and information derived therefrom. The exchange of such files and information is not a public disclosure under the Freedom of Information Act (5 U.S.C. §552). The files and information may, however, be used for the purpose of the SEC's and DOL's investigation and/or proceeding and any resulting proceedings. The SEC may transfer files and information to criminal law enforcement authorities and self-regulatory organizations subject to the SEC's oversight. The DOL may transfer files and information to criminal law enforcement authorities. The SEC and DOL staffs will notify the other agency's staff in writing of any such transfer and use their best efforts to obtain appropriate assurances of confidentiality. The SEC and DOL staffs will: make no public disclosure of the files or information without the prior written approval of the other agency; notify the other agency's staff in writing of any legally enforceable demand for the files or information prior to complying with the demand and assert all such legal exemptions or privileges on behalf of the other agency as may be requested; and not grant any other demand or request for the files or information without prior written notice to, and lack of objection by, the other agency's staff.

6. *Privileges and Confidentiality of Information Maintained:* The DOL and SEC intend that the sharing of information between the agencies will not constitute a waiver of privilege or confidentiality with respect to such information.
7. *Effect of Agreement:* Nothing in this agreement shall be interpreted as limiting, superseding, or otherwise affecting either agency's normal operations or decisions in carrying out its statutory or regulatory duties. This agreement does not limit or restrict the parties from participating in similar activities or arrangements with other entities. This MOU does not create any legally enforceable rights, nor is it to be construed as obligating funds. This agreement will be executed in full compliance with the Privacy Act of 1974. This agreement does not itself authorize the expenditure or reimbursement of any funds, nor does it serve to obligate the parties to expend appropriations.
8. *Effective Date; Termination:* This MOU shall become effective for a period of five years from the date on which it is signed by both parties. Either party may terminate this agreement upon 30 days' written notice to the other party.
9. *Survival of Terms:* In the event this MOU is terminated, any files or information derived therefrom shared pursuant to this MOU shall remain non-public and subject to the safeguards contained herein despite such termination.
10. *Authority:* The parties enter into this MOU pursuant to authority set forth in Section 506(a) of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. Section 1136(a) and Section 24(c) of the Securities Exchange Act, 15 U.S.C. Section 78(x).

Elaine L. Chao
Secretary of Labor

Christopher Cox, Chairman
Securities and Exchange Commission

July 29th, 2008

Date

July 29th, 2008

Date