MEMO# 20951

March 14, 2007

SEC Examiners' Requests for Telephone Records

[20951]

TO: SEC RULES COMMITTEE No. 25-07
TECHNOLOGY ADVISORY COMMITTEE No. 8-07
COMPLIANCE ADVISORY COMMITTEE No. 4-07
CHIEF COMPLIANCE OFFICER COMMITTEE No. 5-07   RE: SEC EXAMINERS' REQUESTS FOR
TELEPHONE RECORDS

Under Section 204 of the Investment Advisers Act of 1940, all records on the premises of an investment adviser may be subject to review by the SEC staff. [1] We have learned that staff of the SEC's Office of Compliance Inspections and Examinations has requested access to telephone records (such as telephone logs and bills) in connection with some recent inspections. OCIE staff has told us that they have no plans to make such requests part of a routine inspection. Of course, pursuant to Section 204, examiners may ask to review telephone records based upon the facts and circumstances presented in a particular inspection.

OCIE staff also reiterated that a fund or its adviser should always feel free to discuss with examiners any concerns that a particular request for information is unusual or overly burdensome with respect to cost, resources, time, or otherwise. [2] That discussion may enable the examiners to better explain their need for the information or work with the fund or adviser to develop alternative responses that provide the examiners the information they need while easing the burden on the registrant.

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endnotes

[1] See discussion of this issue in Electronic Recordkeeping & Communications, Guidance for Investment Companies & Investment Advisers (ICI 2006) (the "ICI Recordkeeping Paper") at p. 9 et seq.. The Institute's Recordkeeping Paper is available on the members' website at: http://www.ici.org/pdf/ppr_06_elec_comm.pdf.

[2] Id at p. 12.