

MEMO# 21440

August 7, 2007

Draft No-Action Letter Regarding Adviser Codes Of Ethics

[21440]

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TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 27-07
COMPLIANCE ADVISORY COMMITTEE No. 16-07
INVESTMENT ADVISERS COMMITTEE No. 15-07
SEC RULES COMMITTEE No. 62-07 RE: DRAFT NO-ACTION LETTER REGARDING ADVISER
CODES OF ETHICS

Attached is a draft letter requesting that the SEC staff not recommend enforcement action to the Securities and Exchange Commission under Rule 204A-1 of the Investment Advisers Act of 1940 or Rule 17j-1 under the Investment Company Act of 1940 if access persons of investment advisers report interests only in those 529 plans invested in mutual funds advised by the investment adviser or a control affiliate.

The draft letter points out that granting the requested relief would be consistent with Rule 204A-1's treatment of mutual funds that are held outside of a 529 plan. It also would be consistent with Rule 204A-1's treatment of unit investment trusts, for which reporting only is required when the unit investment trust is invested in one or more affiliated mutual funds. The draft letter also points out that treating interests in 529 plans like mutual funds would be consistent with the purpose of Rules 204A-1 and 17j-1. Because Section 529 of the Internal Revenue Code imposes strict limits on the use of these accounts, the letter states that there is little risk, if any, of 529 plans being used to engage in short-term trading of mutual funds or other manipulative behavior that Rule 204A-1 and Rule 17j-1 are intended to address.

We will be having a conference call on Thursday, August 23rd at 2:00 EST to discuss the draft letter. Please let Kathy Craft know by email at tlegal@ici.org if you plan on participating on the call. The dial-in number is 1-800-593-1293 and the pass code is 53967.

We also are interested in discussing on the call any other code of ethics issues that the Institute should consider raising with the staff. To facilitate discussion, please email me any such issues at ddonohue@ici.org prior to the call.

Dorothy M. Donohue
Senior Associate Counsel

[Attachment](#)

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