

**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 and inspection findings and trends, enforcement cases, participant assistance, public outreach and investor education, research and data analysis, information technology and data sharing, and any other matters that the SEC and DOL staffs believe would be of interest to the other regulator in fulfilling their respective 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 each agency will require that its participating employees agree to maintain the confidentiality of any non-public program materials and information obtained during such programs.
4. *DOL and SEC Access to Non-Public 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, and subject to applicable law, regulations, memoranda of understanding or other agreements, (a) 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 and (b) to the extent not addressed by section 5 below concerning enforcement-related information, the DOL grants SEC standing access to non-public information that DOL staff determine is relevant to SEC's mission, pursuant to the following safeguards and to the extent permitted by law:

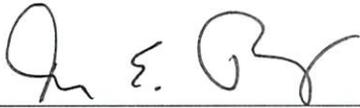
- *DOL and SEC Assurances of Confidentiality.* To the extent permitted by law, the DOL and SEC staffs will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of the files to which access is granted and information derived therefrom. The exchange of such files and information is not a public disclosure under the Freedom of Information Act (5 U.S.C. §552). Such files and information may, however, be used for the purpose of the DOL's and SEC's investigation and/or proceeding and any resulting proceedings. They also may be transferred to criminal law enforcement authorities, self-regulatory organizations subject to the SEC's oversight and the Public Company Accounting Oversight Board ("PCAOB"). The DOL and SEC 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 DOL and SEC staffs will: make no public disclosure of the files or information without the prior written approval of the other agency's staff; notify the other agency's staff in writing of any legally enforceable demand for such 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 such files or information without prior written notice to, and lack of objection by, the other agency's staff.
 - *Right to Financial Privacy Act of 1978 ("RFPA"):* The files and information provided by the SEC and DOL staffs to the other agency's 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 and SEC will represent that they have reason to believe that the files and information are relevant to their 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 for which the information is needed 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). Such 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 such files and information to criminal law enforcement authorities, self-regulatory organizations subject to the SEC's oversight and the PCAOB. The DOL may transfer such 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 such 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 such 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 such 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. The DOL and SEC shall have sole discretion to determine whether to provide the other agency with access to non-public information, in light of, among other things, any ongoing examinations, enforcement investigations, civil or criminal investigations or proceedings or internal policies. This MOU does not create any rights of access to non-public documents. Any access to non-public documents will adhere to Federal information protection requirements defined by the National Institute of Standards and Technology for secure transmission of data, including encryption requirements and/or minimum FIPS 140-2 Level 1 certified data transmission methodology. If a security incident is suspected or verifiably detected, the party shall immediately notify their designated counterparts so that steps may be taken to determine whether there has been a compromise, and that appropriate security precautions are taken. Each party will provide reasonable support to their counterparts in support of analysis and/or investigation into any security incidents. To safeguard the confidentiality of the data, access will be limited to only authorized users with a need to know as each agency conducts its respective mission activities, and such data will be stored in a secure data location, accessible only by those users.
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 and E-Government Act of 2002. 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 on the date on which it is signed by both parties. The SEC and DOL will review the operation of this MOU, as

necessary, and the MOU may be modified by mutual agreement of the 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).



Thomas E. Perez
Secretary of Labor

7/25/13
Date



Mary Jo White, Chair
Securities and Exchange Commission

7/27/13
Date