



DIVISION OF
TRADING AND MARKETS

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

January 10, 2008

Mr. Alan Sorcher
Vice President & Associate General Counsel
Securities Industry and Financial Markets Association
1101 New York Avenue, NW, 8th Floor
Washington, DC 20005

**Re: Financial Recordkeeping and Reporting of Currency and Foreign
Transactions / Broker-Dealer Customer Identification Rule**

Dear Mr. Sorcher:

On February 12, 2004, the staff of the Division of Market Regulation (“Division”), in consultation with the Financial Crimes Enforcement Network, Department of Treasury, issued a letter stating that it would not recommend to the Securities and Exchange Commission (“Commission”) that enforcement action be taken if a broker-dealer treated a registered investment adviser¹ as if it were subject to an anti-money laundering program rule (“AML Rule”) under 31 U.S.C. 5318(h) for the purposes of paragraph (b)(6) of the broker-dealer customer identification rule, 31 CFR 103.122.² In the 2004 letter, the Division provided that the letter would be withdrawn without further notice on the earlier of: (1) the date upon which an anti-money laundering program rule for advisers became effective, or (2) February 12, 2005. Because a rule for advisers did not become effective, the relief in the 2004 letter was extended for an additional 18 months on February 10, 2005³ and again on July 11, 2006.⁴ This letter

¹ Sections 203 and 203A of the Investment Advisers Act of 1940, and the rules promulgated thereunder, govern which investment advisers must register with the Commission.

² Letter from Annette L. Nazareth, Director, Division of Market Regulation, Commission, to Alan Sorcher, Securities Industry Association, dated February 12, 2004.

³ Letter from Annette L. Nazareth, Director, Division of Market Regulation, Commission, to Alan Sorcher, Securities Industry Association, dated February 10, 2005. This letter extended the relief until the earlier of a rule for advisers becoming effective or July 12, 2006.

⁴ Letter from Robert L.D. Colby, Acting Director, Division of Market Regulation, Commission, to Alan Sorcher, Securities Industry Association, dated July 11,

extends the relief granted in the 2004 letter for an additional two year period or until such time as advisers become subject to an AML Rule.

As set forth in the previous letters, and following further consultation with the Financial Crimes Enforcement Network staff, the Division staff will not recommend enforcement action to the Commission under Rule 17a-8 if a broker-dealer relies on an investment adviser, prior to such adviser becoming subject to an AML Rule, provided all the other requirements and conditions in paragraph (b)(6) of the CIP Rule are met, namely that: (1) such reliance is reasonable under the circumstances; (2) the investment adviser is regulated by a Federal functional regulator; and (3) the investment adviser enters into a contract requiring it to certify annually to the broker-dealer that it has implemented an anti-money laundering program, and that it will perform (or its agent will perform) specified requirements of the broker-dealer's customer identification program. The relief provided in the previous letters and extended by this letter is withdrawn without further action on the earlier of: (1) the date upon which an AML Rule for advisers becomes effective, or (2) January 12, 2010.

This is a staff position with respect to enforcement only and does not purport to express any legal conclusions. It may be withdrawn or modified if the staff determines that such action is necessary to be consistent with the BSA and in the public interest.

Sincerely,



Erik Sirri
Director

cc: James H. Freis, Jr., Director
Financial Crimes Enforcement Network

2006. This letter extended the relief until the earlier of a rule for advisers becoming effective or January 12, 2008.