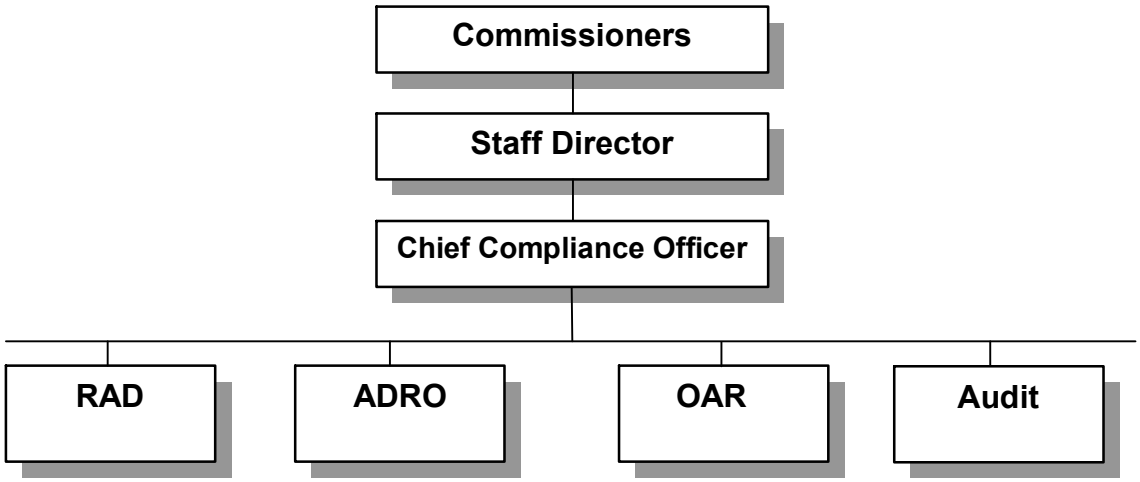
Office of Compliance Overview - Enforcement Hearing January 2009

The Office of Compliance was established in November of 2006 as part of a high level restructuring of the Office of the Staff Director. The Compliance Office was set up to align core compliance and disclosure functions under the Staff Director. The office is headed up by the Deputy Staff Director, Chief Compliance Officer and is comprised of four major components with 99 employees in FY 2008. The breakdown for each of the areas is as follows; the Alternative Dispute Resolution Office (ADRO) with 3 employees, the Audit Division with 38 employees, the Office of Administrative Review (OAR) with 3 employees and the Reports Analysis Division (RAD) with 53 employees.



Reports Analysis Division

The Reports Analysis Division (RAD) supports the strategic goals of the agency in regard to stated transparency and compliance objectives. RAD's mission statement is to "assure that campaigns and political committees file timely and accurate reports that fully disclose their financial activities. RAD is responsible for reviewing statements and financial reports filed by political committees participating in Federal elections, providing assistance and guidance to the committees to properly file their reports, and for taking appropriate action to ensure compliance with the Federal Election Campaign Act (FECA). By enforcing the rules in a fair and objective manner, RAD fosters the electorate's faith in the ultimate integrity of the nation's political process." RAD is comprised of three branches with administrative and file room support staff.

The Authorized and Party/Non-Party Review Branches are both staffed with campaign finance analysts (Analysts) who assist committee officials in complying with reporting requirements and conduct detailed examinations of the campaign finance reports filed by committees. If an error, omission, need for additional clarification, or prohibited activity (e.g., an apparent excessive contribution) is discovered in the course of reviewing a report, the Analyst sends the committee a letter which requests that the committee amend its report, take corrective action, or provide further information concerning a particular problem. By sending these letters (Requests for Additional Information or RFAIs), the Commission seeks to ensure full disclosure and to encourage the committees to voluntary comply with the law. Analysts also provide frequent telephone assistance to committee officials and encourage them to contact RAD with reporting and compliance questions or problems. If a potential violation is discovered and the

committee fails to take corrective action or provide clarifying information to adequately address the issue, the Analyst may prepare a referral to another Commission office for further action based on the RAD Review and Referral Procedures.

Analysts on the Compliance Branch administer and track committee compliance in regard to the Non-Filer, Administrative Fine, and other internal programs. They also review Debt Settlement Plans, assess committees' eligibility for Administrative Termination, and perform quality control of referrals prepared by the reviewing branches.

Document Review and Outgoing Letters

All documents, statements and reports filed by committees with the FEC and the Secretary of the Senate are reviewed using the review and referral procedures. The Commission approves the RAD Review and Referral Procedures at the beginning of each new two-year election cycle. RAD typically receives and reviews over 100,000 reports each election cycle.

RAD sends out approximately 20,000-24,000 letters on an election cycle basis (RFAI's, Non-Filer, Disavowal, Termination, etc). A committee's failure to respond or to respond adequately to a letter can result in a referral to the Office of General Counsel (OGC), Alternative Dispute Resolution Office (ADRO), Admin Fine Program or the Audit Division.

RAD handles and documents approximately 20,000 incoming committee calls on an election cycle basis. RAD also supports Commission transparency initiatives by participating in educational outreach programs to include FEC conferences, roundtables, and analyst "meet and greet" sessions. RAD provides extensive support for special agency projects for other Compliance offices and divisions as well as OGC and the Information Technology Division.

Referrals

Matters are referred to other divisions within the Agency for possible enforcement action. During the 2007-08 election period, RAD forwarded 164 referrals: 37 to OGC, 51 to Audit, 65 to ADRO and 11 to the Administrative Fine Program. All referrals are based on thresholds established within the applicable RAD Review and Referral Procedures.

Non-Filer Program

In accordance with the Commission Directives, RAD identifies and notifies those committees who have a reporting obligation and fail to file or fail to timely file required reports. These "Non-Filer Notices" can result in publication per 2 U.S.C. §437g. Publishable notices are only sent to candidate committees participating in a current election for reports due immediately prior to the election. The names of the committees are published in a press release once Commission approval is obtained via a tally vote

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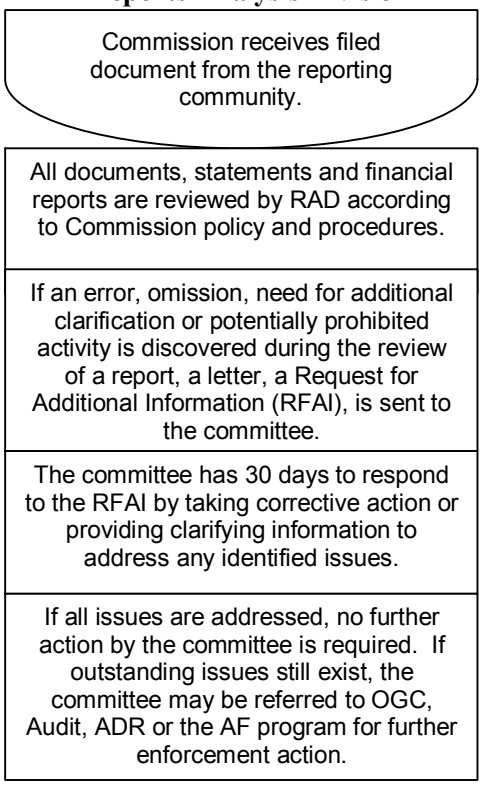
Debt Settlement Program/Administrative Termination Program

RAD reviews Debt Settlement Plans submitted by committees that do not intend to receive contributions or make expenditures except for the purposes of paying winding-down costs and retiring debts. RAD also assesses the eligibility of committees that appear to be inactive to terminate their reporting obligations. These committees must meet the requirements for administrative termination outlined in the RAD Review and Referral Procedures (also see 11

C.F.R.§102.4) and have no pending enforcement matters. Committees eligible for administrative termination receive a notice from RAD advising them that they may stop filing reports until they have reportable financial activity.

2008 Election Cycle (1/1/07-12/18/08) Overview - Reports Analysis Division	
Reports Reviewed	104,165
Other Documents Reviewed	39,452
Administrative Fine Cases Closed	276
Outgoing Letters	24,183
Phone Calls	22,503
Referrals	164

Report Review Process Flow
Reports Analysis Division



Alternative Dispute Resolution Office

The Alternative Dispute Resolution Office (ADRO) was established in October 2000 to reduce case processing times and free up Commission resources. Originally the ADR program was a pilot program. The Commission voted to make ADR a permanent program within the Commission effective October 1, 2002.

The current mission of the ADRO, while minimizing case processing time and reducing the use of Commission resources, is to increase satisfaction with the Commission's enforcement of the FECA. The ADRO uses interest-based collaboration with respondents to develop remedial measures to increase compliance, while tailored to the committees' needs, resources, and the particular issues involved in the case

The ADRO resolves selected matters outside the standard enforcement process using a negotiated problem solving approach. Cases processed by the ADR Office consists of external complaints and internal referrals from RAD and Audit. External complaints are first reviewed by OGC, and then reviewed by the ADRO to determine if ADR negotiations would be beneficial. If the ADRO determines that negotiations would not be beneficial, the ADRO returns the case to OGC for further action, or recommends the Commission dismiss the case.

The ADRO conducts interest-based negotiations using a joint problem solving approach. These negotiations typically yield settlements in which the terms focus predominantly on non-monetary remedial measures, such as staff training, internal reconciliations/audits by certified professional accountants, internal control policies, or retaining the services of individuals with expertise in compliance and campaign finance reporting. Civil penalties are often included in the settlements, but can be significantly discounted based on the committees' participation in ADR, mitigating circumstances, and the remedial measures negotiated in the settlement. The ADRO also focuses on processing cases to closure as expeditiously as possible, often within 3-5 months of assignment. The ADRO handled 60-90 cases per fiscal year in recent years, and with the advent of the expanded number of referrals from RAD, the ADRO should be processing between 100-130 cases per fiscal year.

ADR Office Statistics	**January 1, 2007 – December 18, 2008**
Active Cases on 12/18/08	29
Cases Received	104
Cases Closed	111
Dismissed	33
Settlement Agreements	72
Returned	6
Penalties Assessed	$153,695

Office of Administrative Review

The Office of Administrative Review (OAR) reviews committee challenges submitted in response to the Commission's RTB findings that they violated the 2 U.S.C. § 434(a) filing requirements. The challenge or appeals process is one part of the Administrative Fine Program (AFP) which is based on the 1999 amendment to the Act which lets the Commission use a more streamlined enforcement process to handle late-filer and non-filer violations (see 2 U.S.C. § 437g(a)(4)(C)). The AFP supports the Commission's strategic plan and its compliance objectives.

The initial legislation covered violations that occurred through December 2001. The AFP has been extended four times with the most recent extension covering through December 2013. In April 2003, revisions were made to both fine schedules and the level of activity definition. In March of 2007, the best efforts defense supplanted the extraordinary circumstances defense. Since the program's inception in July of 2000, the Commission has closed 1,732 cases with total fines assessed of $3,287,438 and OAR has reviewed 496 challenges.

RAD and OAR administer the AFP. RAD handles all RTB recommendations and the final determination (FD) recommendations for those committees who do not submit challenges. OAR was established in 2000 to handle the challenge review process (Reviewing Officer

recommendations) and FD recommendations for the challenges. OAR also monitors all payments made to the AFP's lockbox and Treasury's debt collection efforts for unpaid fines.

For each report, RAD forwards a memorandum to the Commission with a RTB recommendation. Each memorandum, which is voted on by the Commission, includes a list of the committees and their treasurers with the four regulatory factors used to calculate the proposed fine for each case. After the Commission approves the RTB findings, letters are prepared, signed by the Chairman, and sent to the respondents.

Respondents have three options after RTB: pay the proposed fine, challenge the finding and/or proposed fine, or do nothing. Respondents who either pay the RTB fine or do nothing within the 40 day window remain with RAD who then forwards a memorandum to the Commission for a FD vote. Similar to the RTB memorandum, the FD memorandum is voted on by the Commission and includes a list of the respondents with information on the four factors used to calculate the final fine.

Respondents' challenges are reviewed by OAR. After analyzing the issues raised in each challenge, OAR forwards its recommendation called the Reviewing Officer recommendation to the Commissioners on an informational basis. A copy is sent to the respondents who have 10 calendar days to submit a written response to it if they choose to do so (some respondents opt to pay the fine; some respondents opt to do nothing). If they submit a reply, OAR includes an analysis of it in the FD memorandum. This memorandum is circulated to the Commissioners on a tally vote basis.

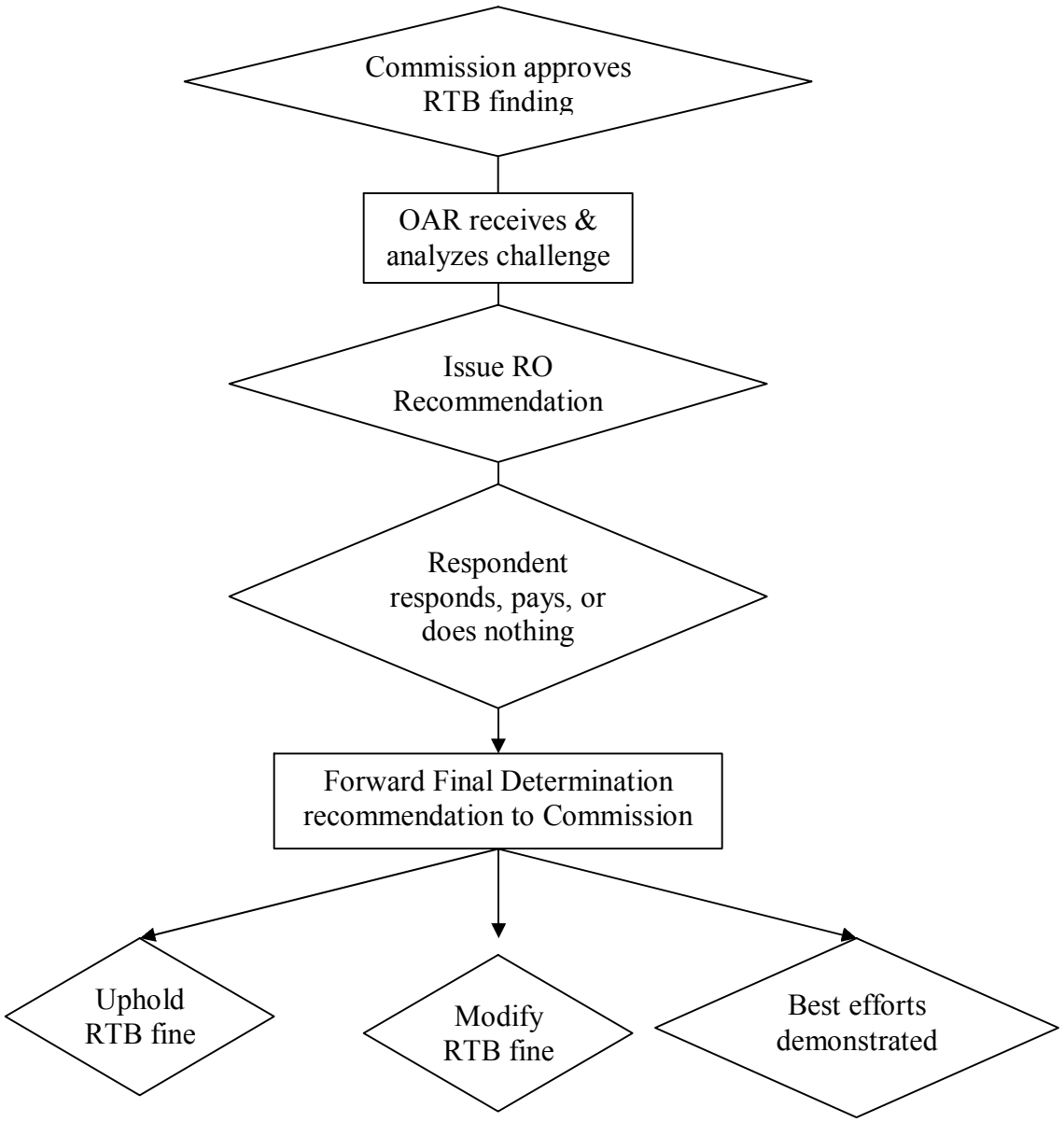
After the Commission makes its final determination in any AF case, a letter is prepared, signed by the Chairman, and sent to the respondents. The respondents have 30 calendar days from their receipt of the letter to pay the final fine or file suit in U.S. District Court. If they do not pay or file suit and staff's attempts to get them to pay are unsuccessful, the unpaid fine is referred to the Department of Treasury for collection in accordance with the Debt Collection Improvement Act of 1996. OAR handles these liaison responsibilities with Treasury and the Commission's Chief Financial Officer.

All closed administrative fine cases are forwarded to OGC for FOIA review before they are placed on the public record. Press releases are periodically prepared for these closed cases and articles are included in the FEC Record.

Statistical Summary for the 2007-2008 Election Cycle

For the 2007-2008 election cycle, OAR has received 73 challenges, issued Reviewing Officer recommendations for 77 challenges, and handled 283 lockbox payments. As of this date, there are 22 challenges in which Reviewing Officer recommendations have not been issued.

OAR Flow Process



The Audit Division

The Audit Division is tasked with the administration of the Presidential Public Funding program and with the audit of political committees to determine if they have complied with the disclosure and other provisions of the Federal Election Campaign Act, as amended, and with the provisions of Chapters 95 and 96 of Title 26 of the United States Code.

How Audits are Identified

Audit cases may come from one of three places. All committees that receive public funding for a Presidential campaign or nominating convention are statutorily required to undergo a Commission audit. An audit may also be generated as part of an enforcement matter being

processed by the Office of General Counsel. And the largest number of audits that the Commission conducts are done under 2 USC §438(b). That provision requires audits to be based on a review of disclosure reports filed by committees to determine if they have met the Commission's thresholds for substantial compliance. This review of the reports is performed by the Reports Analysis Division (RAD). Based on Commission approved procedures RAD refers committees to audit. The Audit Division's goal is to conduct 40 - 50 of these "audits for cause" each election cycle. Forty-eight audit reports were forwarded to the Commission for approval during the 2008 election cycle.

The Audit Process

The audit can be broken down into three stages. Pre-Audit, Fieldwork, and Report Processing. The time to complete the various stages is based on the last 4 fiscal years (FY06-FY08).

Pre Audit

This is the beginning stage of the audit and commences when the Commission approves the audit and it has been assigned to a team of auditors. An audit notification letter is generated to inform the committee that they have been selected for audit and to request that some basic records be provided. The review of these records along with any information available from other Commission operating units (RAD, OGC, ADR, and Administrative Fines) provides a basis to conduct some preliminary procedures prior to audit fieldwork. Any work accomplished during pre-audit tends to shorten the length of time needed in the fieldwork phase of the audit.

Fieldwork

Generally the fieldwork stage involves a team of auditors traveling to a site selected by the audited committee and inventorying the committee's records, testing those records for compliance with the requirements of the FECA and testing the disclosure reports filed by the Committee to the records. It also may include requests for additional records, subpoenas, if necessary, in rare cases suspension of the work until records are assembled, and ends with an exit conference. In the exit conference, the results of the audit are explained, supporting information is provided for each finding, and minor discrepancies that will not appear in the audit report may be identified for the committee's information. After the exit conference the committee is allowed 10 business days to provide additional information that may result in the elimination of one or more audit findings. The average time to complete the fieldwork is 60 days.

Report Processing

After the fieldwork is complete and the committee has had a last opportunity to submit materials, an audit report is drafted. Unless there are no audit findings, the report is referred to as an Interim Audit Report, or in the case of a presidential audit, Preliminary Audit Report. This report contains a summary of the issues discovered by the audit, recommendations for corrective action by the committee or requires the committee to provide explanations for identified problems. Interim or Preliminary Audit Reports can fall into one of two categories that are simply referred to as Track A or B. Track A reports consist of findings that do not include any unresolved legal issues. These are issues that we have seen and dealt with before and on which the law is settled. These reports are issued to the audited committee without legal analysis or

Commission vote. The Commission receives an informational copy after they are transmitted to the committee. Most of the audit reports are Track A.

Those reports that have a novel question or a novel twist on a recurring issue are designated Track B. They are forwarded to the Office of General Counsel for formal legal analysis prior to issuance. When the legal analysis is received it is attached to the audit report and circulated to the Commission for approval. If not approved by a tally vote, the report is scheduled for discussion at an Executive Session Meeting. Once approved it is transmitted to the committee for response. Regardless of the type of report, the committee is provided thirty days to comply with or respond to the findings and recommendations in the report. Additional time is available upon request.

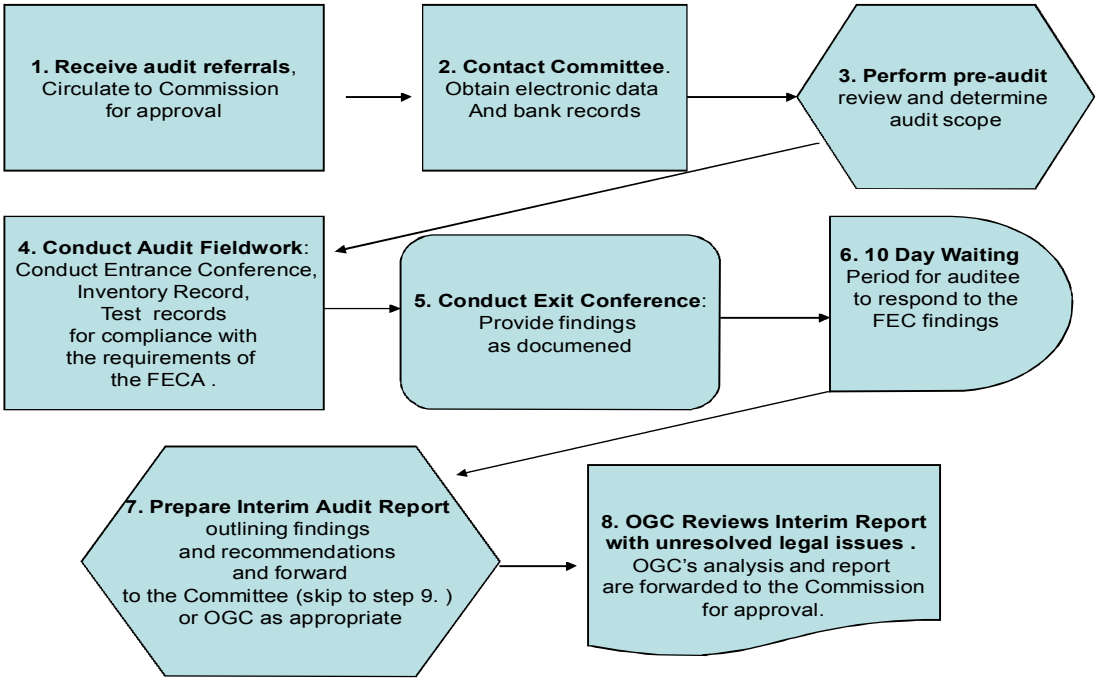
After the committee responds to the Interim or Preliminary Audit Report the auditors evaluate the response and create a Final Report. It contains the information that was in the Interim or Preliminary Audit Report, what was recommended, the committee's response, and a comment on that response. In the majority of cases, the committee complies with the recommendations and the Final Audit Report simply acknowledges that action. In some cases, a committee may disagree with the recommendations and conclusions in the Interim or Preliminary Audit Report. In those cases the auditors will consider the arguments and evidence provided and either agree or disagree. Occasionally, a committee chooses not to respond at all and the report will reflect that as well.

Again at this stage, a report can be considered either Track A or B. Again the designation depends on whether there are unresolved legal questions presented by the response to the Interim or Preliminary Audit Report. Track B Final Audit Reports are not common since if there was a legal question, it was likely address at the earlier stage. If it is determined that legal comment is desirable at this stage of the audit, the report will be forwarded to the Office of General Counsel for comment. Regardless of whether a legal analysis is necessary, the Final Audit Report is forwarded to the Commission for approval. If not approved by a tally vote, it will be scheduled for discussion at an open Commission meeting. The average time to process a Track A report is 172 days.

After the audit report is approved, it will be forwarded to the committee and once it is verified that the report has been received, it is released as a public document and placed on the Commission's Web site. After the report is placed on the public record, any findings that meet certain standards will be referred to either the Office of General Counsel for enforcement or to the Office of Alternative Dispute Resolution. All referrals will be to one office or the other, but not both.

	Based on # of Audit "Released"				Based on # of Audits "Circulated" to Commission
Description	Average Amount of Days FY 2005	Average Amount of Days FY 2006	Average Amount of Days FY 2007	Average Amount of Days FY 2008	Average Amount of Days FY 2008
Pre-Audit	64	67	76	39	87
Fieldwork	109	59	29	58	75
Report Processing (IAR & FAR)	254	191	264	169	209
# of Audits	20	13	18	8	27

Title 2 Audit Process



Title 2 Audit Process