



PERSPECTIVE

Industry Focused News

Vista360 Perspective mailings are intended to provide advisers and funds with our *perspective* on current industry news important to our investment adviser and fund company clients. This issue of Vista360's Perspective focuses on two no-action letters the SEC recently issued, which *effectively ease the recordkeeping obligations of broker-dealers and investment advisers who outsource trade confirmation services*.

To read past issues of the Perspective, including Vista360's most recent quarterly Hot Industry Topics List, [please visit our web site](#).

SEC Issues No-Action Letters to Omgeo

The Securities and Exchange Commission ("SEC") recently issued two no-action letters to Omgeo LLC ("Omgeo"), a third-party service provider that assists broker-dealers and investment advisers with the management of trade allocations, confirmations and settlements. Omgeo requested no-action relief for its clients that depend on Omgeo to transmit trade confirmations, if these clients also rely on Omgeo to maintain and preserve such confirmations.

The first [SEC no-action letter dated March 19, 2009](#) permits Omgeo to prepare, deliver, maintain and preserve copies of confirmations for its broker-dealer clients that subscribe to Omgeo's TradeSuite recordkeeping services. The second [SEC no-action letter dated August 14, 2009](#) granted the same relief to Omgeo's investment adviser clients. TradeSuite is the name of the ID System to which Omgeo's clients subscribe, previously operated by the Depository Trust Company ("DTC").

Recordkeeping Burden Relief for Advisers

Advisers' record retention requirements are found in Rule 204-2 under the Investment Advisers Act of 1940 (the "Advisers Act"). Pursuant to the no-action letter, Omgeo will make and keep electronic copies of confirmations for investment advisers in accordance with the electronic recordkeeping requirements under Rule 204-2(g) of the Advisers Act. Omgeo will catalogue the records in a manner for easy access and retrieval, and retain a duplicate copy of the electronic records that will be stored separately from the original record. Omgeo will continue to deliver daily trade confirmations. Additionally, Omgeo has agreed to permit clients to request

confirmations at any time during normal business hours and will deliver those confirmations within 24 hours.

Trade confirms are typically stored in large catalogs on CDs, but the real difficulty lies in the cataloging and maintenance of these records for easy access. Having the ability to outsource this responsibility to a third-party service provider like Omgeo may help advisers create greater efficiency by saving them the time and cost associated with retaining and cataloging this information.

Other Regulatory Considerations

To comply with the books and records rules, Omgeo will retain the confirmation records for a period of not less than five years from the end of the fiscal year during which the last transaction was made. Advisers retaining Omgeo will still be required to maintain trade records onsite for the most recent two years after a security transaction.

These no-action letters do not relieve broker-dealers or investment advisers from their oversight responsibilities of ensuring the required records are created and retained by Omgeo.

We recommend advisers outsourcing trade confirmation services to Omgeo contact Omgeo directly regarding their specific situation before applying the information contained in the no-action letters.

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