

SEC Antifraud Rule Applicable to Investment Advisers to "Pooled Investment Vehicles" Becomes Effective

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On September 10, 2007, new Rule 206(4)-8 (the "Rule") under the Investment Advisers Act of 1940, as amended (the "Advisers Act"), became effective. The Rule, adopted by the Securities and Exchange Commission ("SEC") on August 3, 2007, is the latest SEC effort to gain greater regulatory oversight of hedge funds and other so-called "private investment companies" - investment entities which are organized so as to be exempt from SEC registration (and hence regulation) under the Investment Company Act of 1940, as amended. The SEC's previous effort in this regard was thwarted in 2006 when the D.C. Court of Appeals decision in *Goldstein v. Securities and Exchange Commission* vacated a rule adopted by the SEC which required investment advisers to "private funds" to register under the Advisers Act.