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COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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August 17, 2011

The Honorable Mary Schapiro
Chairman
U.S. Securities and Exchange Commission
Washington, DC 20549

Dear Chairman Schapiro:

I recently received a letter regarding Mr. Darcy Flynn, a thirteen year veteran of the Securities and Exchange Commission (SEC). Mr. Flynn alleges that SEC staff has destroyed over 9,000 files related to Matters Under Investigation (MUI). As you know, a MUI is the first step the SEC takes when credible information about a possible securities law violation is received. These records may contain critical information that could be extremely useful in piecing together complex cases, even if not immediately pursued.

Further, Mr. Flynn claims that the SEC has destroyed files related to MUIs even in extremely important cases such as the investigation of Bernard Madoff, Goldman Sachs trading in AIG credit default swaps in 2009, financial fraud at Wells Fargo and Bank of America in 2007 and 2008, and insider trading investigations at Deutsche Bank, Lehman Brothers, and SAC Capital. If Mr. Flynn's allegations are correct, the intentional destruction of at least 9,000 MUIs would appear to greatly handicap the SEC's ability to create patterns in complex cases and calls into question the SEC's ability to properly retain and catalog documents.

In light of Mr. Flynn's allegations, I would appreciate answers to the following questions:

1. Has the SEC routinely destroyed MUIs, and if so, why?
2. Is the SEC not concerned that destroying these files may have harmed future investigations? If not, please explain why not?
3. Is it possible for the SEC to retrieve any of this information?
4. Is Mr. Flynn correct that the SEC has destroyed MUIs related to Bernard Madoff, Goldman Sachs, Wells Fargo, Bank of America, Deutsche Bank, Lehman Brothers, and SAC Capital? If so, please explain why.

5. Is it current SEC policy to destroy any files related to MUIs if the investigation does not progress to a formal order approved by the Commission?
6. What is the SEC's understanding of its legal obligations to maintain and archive records related to MUIs and how is the SEC's policy and practice consistent with those obligations?

Thank you for your cooperation and attention in this matter. I would appreciate a response by August 31, 2011. If you have any questions, please contact Chris Lucas on my staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary