# United States Senate

COMMITTEE ON THE BUDGET
WASHINGTON, DC 20510-6100

June 24, 2005

United States Securities & Exchange Commission
450 Fifth Street NW
Washington, DC 20549

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OFFICE OF THE SECRETARY

Dear Chairman Donaldson and Members of the Commission:

I am writing to express concern that the Commission has not dedicated sufficient consideration to its proposed rule change that would require mutual funds to raise the percentage of independent directors from 50% to 75% and have an independent chairman. Existing empirical research does not appear to support such a change.

In a report your staff prepared to comply with the provisions of the FY 2005 Consolidated Appropriations Act requiring the Securities & Exchange Commission (SEC) justify its rule that the directors of mutual funds be independent, they concluded that "the empirical data regarding the relationship between an independent chairman and fund performance and fees are inconclusive." In the attached dissenting statement, Commissioners Glassman and Atkins concluded that the report "does not provide a valid justification for the independent chair rule."

Without being able to clearly demonstrate how mutual fund investors would benefit from the proposed change, it would appear implementing such a rule is unwarranted. In fact, the Bobroff-Mack Report concluded that management-chaired funds both perform better than and charge lower fees than independent-chaired funds. These results suggest requiring independent chairman on mutual fund boards could actually hurt investors.

Furthermore, on Tuesday June 21st the US Court of Appeals for the DC Circuit unanimously ruled that the SEC failed to properly review the cost of the proposed rule that the directors of mutual funds be independent and consider the disclosure alternative.

Considering the lack of empirical evidence to support such a change and the DC Circuit's recent ruling, I ask that the Commission postpone action on this matter until the Commission's new chairman is confirmed and has had adequate time to review this matter.

Sincerely,

Judd Gregg

Judd Gregg
Chairman

cc: Allan Hubbard, Director of the President's National Economic Council