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115

United States Senate

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OFFICE OF THE
CHAIRMAN

January 30, 2004

Chairman William H. Donaldson
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

Dear Chairman Donaldson:

S7-27-03

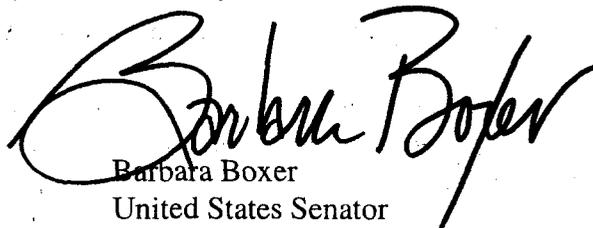
I commend the Commission for its efforts to prevent "late day trading" in mutual fund shares – an illegal practice that erodes investor confidence. However, I am concerned that recently proposed SEC rules will discriminate against investors in California who invest in mutual funds through their 401(k) plans or through broker-dealers.

Under current law, a mutual fund order received by 4 p.m. Eastern time by a mutual fund or an intermediary (such as a broker-dealer or 401(k) administrator) will receive that day's share price. Intermediaries are permitted to submit trade orders to the mutual fund after 4:00 p.m. provided that the order was received by the intermediary before 4:00 p.m. Mutual fund intermediaries use the post-4:00 p.m. period to process and transmit those fund orders.

To comply with the proposed rule, fund intermediaries would have to set earlier cut off times for their customers in order to complete the trade processing that now occurs after 4:00 p.m. That means investors residing in California would have to contend with a very short trading day. This earlier cut off time could be as early as 2:00 p.m. Eastern time for broker-dealers and 1 p.m. Eastern time for retirement plans (due to the complexity of plan rules). For those mutual fund investors who use broker-dealers in California, mutual fund orders would have to be received by 11 a.m. Pacific time; for 401(k) participants, the trading day would end by 10 a.m.

I ask that you consider technology-based alternatives that address late trading abuses while maintaining a level playing field for all mutual fund investors regardless of with whom or where in the country those orders are placed.

Sincerely,


Barbara Boxer
United States Senator

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