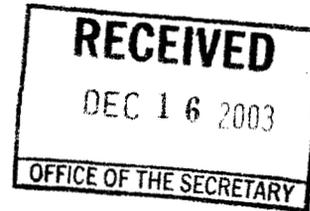


By Messenger

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November 7, 2003



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

Re: *Mutual Fund Reform*

Dear Chairman Donaldson:

The 28,000 financial planners and affiliated members of the Financial Planning Association (FPA<sup>TM</sup>)<sup>1</sup> are closely following the current controversy involving illegal late trading and market timing activity and wish to submit some general comments to the Commission as it considers structural reforms. FPA members personally manage, on behalf of their 7.8 million clients, more than \$1 trillion in equities, the majority of which are in mutual fund shares. While comprehensive financial planning remains the principal focus of FPA, mutual funds are an important part of that process. Mutual funds are a common investment vehicle used by planners in their retirement and education planning recommendations, as well as a significant part of investment management strategies and a significant factor in monitoring financial plans.

Financial planners generally embrace modern portfolio theory and are thus strong proponents of portfolio diversification to dampen volatility and optimize rates of return. Mutual funds play a core role in their investment recommendations, and continue to provide an eminently suitable platform for meeting many of their clients' investment objectives, notwithstanding the recent, disturbing allegations of illegal after-hours trading in the fund industry. FPA believes that inexperienced investors who abandon mutual funds for the safety of money market funds, or move into individual stocks to meet these same investment objectives, may run the risk of even greater losses or lower rates of return over

<sup>1</sup> The Financial Planning Association is the largest organization in the United States representing financial planners and affiliated firms. Most are affiliated with investment adviser firms registered with the Securities and Exchange Commission ("SEC"), state securities administrators, or both. FPA maintains administrative offices in Atlanta and Denver, and a government relations office in Washington, D C

time, thereby impeding or preventing them from reaching their broader goals, goal achievement being an obvious but critical component of the planning process.

Further, FPA notes many other potential investment risks involved in the transfer of assets, given the current, fluid situation of ongoing federal and state investigations and new allegations of improper trading in mutual funds appearing in the news almost daily. Obviously, moving assets from one fund that is under investigation to another doesn't guarantee that the other fund will not be the target of an investigation tomorrow, or, in the case of defined contribution plans, whether there are any appropriate investment alternatives should that happen. Other traditional considerations that an investor has to consider in making withdrawals include tax consequences and surrender charges, as well as investment performance, loads, and fund manager tenure.

Although it is regrettable that the current debate over mutual fund reform is being driven in part by highly publicized investigations and congressional hearings, we believe that the focus is nonetheless appropriate and long overdue. We note that financial planners as early as 1998 engaged the mutual fund industry in a dialogue to consider reductions in operating and overhead costs, management fees, to address the tax consequences of portfolio turnover, style drift, and reporting of fund holdings. In June 2000, FPA petitioned the SEC to expand certain disclosure requirements for mutual fund holdings. As a strong advocate of more accurate and timely disclosure of fund holdings and expenses to shareholders, FPA believes that substantive, but not precipitous, reform in mutual fund governance, portfolio management, sales and distribution are clearly required. FPA reiterates its general support for previous and currently proposed structural reforms under discussion, in rulemaking, or in pending legislation as outlined below:

- Meaningful disclosure to prospective and current fund shareholders of commissions, fees, and other payments and incentives made by fund companies to distributors of their mutual fund shares,<sup>2</sup> including potential conflicts of interest involving fund managers;
- Establish a "hard close" of 4 p.m. Eastern Time for order acceptance by open-end mutual funds to discourage further illegal after-hours trading;
- At the same time, encourage regulators to work closely with fund companies, broker-dealers, transfer agents and others involved in the clearance and settlement system to mitigate the inconvenience for some investors caused by the 4 p.m. deadline that would require an earlier deadline for processing trades;
- Establish rules discouraging short-term trading in and out of a fund in less than five days, including adoption of the mutual fund industry's proposal to charge a 2 percent or higher redemption fee for such activity;
- Strengthen mutual fund governance through legislation or rules for an independent chair, and increasing the number of independent directors such as prohibiting

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<sup>2</sup> For example, FPA generally supports the disclosure of compensation by brokers in H.R. 2420, the recently introduced mutual fund legislation by Senators Akaka and Fitzgerald, and amendments to NASD Rule 2830

individuals with material business interests or familial relationships with the fund company from serving on the board;

- Increase the frequency of disclosure of a fund's equity holdings to monthly, instead of the quarterly disclosure proposed in SEC Release Nos. 33-8164; 34-47023; IC-25870; File No. S7-51-02;
- Require meaningful fund disclosure of brokerage costs and related soft dollar expenses as part of the overall expense ratio provided in fund reports; and
- Conduct studies by the Commission of the current level of financial literacy among mutual fund investors and whether current fund expenses are reasonable in light of the substantial growth of fund assets over the past decade.

FPA appreciates the opportunity to provide comment on this critical issue, and urges the Commission and staff to continue to examine all appropriate and reasonable means of improving oversight of the mutual fund industry.

Sincerely,



David B. Yeske, CFP®  
President

cc: Honorable Paul S. Atkins  
Honorable Roel C. Campos  
Honorable Cynthia A. Glassman  
Honorable Harvey J. Goldschmid  
Paul Roye, Director, Investment Management Division  
Cynthia Fornelli, Deputy Director, Investment Management Division  
Robert Plaze, Associate Director, Investment Management Division