

July 19, 2007

Nancy M. Morris, Secretary
United States Securities & Exchange Commission
100 F Street
Washington, DC 20549

RE: File No. 4-538; Rule 12b-1

Dear Secretary Morris:

This letter responds to the request of the Securities & Exchange Commission for comments from the public regarding the Commission's consideration of possible revisions to Rule 12b-1 under the Investment Company Act of 1940. I am President of Thornburg Investment Management, investment advisor to 13 Thornburg mutual funds.

Since the adoption of Rule 12b-1, a sizable and complex "ecosystem" has developed to comply with the Rule and accommodate distribution and service related expenses of mutual funds. The rule was adopted following a period of consecutive years of overall shrinkage of industry assets. Since 1980, the mutual fund industry has generally grown. Linkages between individual fund managers and captive distribution organizations have broken down, with overall favorable effects on investor choices, overall costs, and outcomes. Consider the following facts:

1. Total annual costs of owning stock mutual funds, including fund sales commissions, declined from 2.32% of assets in 1980 to 1.07% of assets in 2006, according to asset weighted numbers released by the Investment Company Institute.
2. Total annual costs of owning bond mutual funds, including fund sales commissions, declined from 2.05% in 1980 to .83% in 2006.
3. Morningstar calculates that approximately 48% of stock funds and 55% of taxable bond funds are waiving some portion of their annual fund expenses, indicating effective competitive pressure on fees in the marketplace.
4. Fund expenses, including Rule 12b-1 expenses, are clearly disclosed in fund offering documents, fund financial reports, and by most investment research services that report on mutual funds.
5. A 2006 survey of recent mutual fund buyers conducted for the Investment Company Institute reported that 74% of these investors considered fees and expenses before investing.

6. An entire industry of independent financial advisors, compensated in part by 12b-1 fees and concerned with the overall financial health of investor clients, has grown to serve investors. In addition, large brokerage firms have increasingly become more open to using funds managed by independent advisors, rather than relying entirely on in-house managed products.

It is clear that many investors seek advice from financial professionals in order to manage their overall financial affairs, including asset allocation and selection of individual mutual funds. Current SEC and NASD regulations generally provide for adequate disclosure of fees included in the cost structures of specific mutual fund classes of shares that are structured to bear these costs. If regulators believe that improvements can be made to existing disclosures, these should be considered and implemented by regulators for all mutual fund industry participants.

Independent Trustees of mutual funds have complex oversight responsibilities. These include evaluating disclosure and execution of investment strategies, compliance with SEC rules, overseeing payment of and disclosure of fund expenses, approving a variety of contracts for providing key services required by mutual funds, overseeing performance of investment advisors and distributors, overseeing trading of fund portfolios, evaluating adequacy of and compliance with codes of conduct, and overseeing distribution of fund shares, including compliance with Rule 12b-1.

Independent Trustees do not need increased oversight responsibilities with respect to Rule 12b-1. Fund investors will not be well served by establishing new oversight mandates for fund Trustees with respect to Rule 12b-1. Some people have recommended “unified fee” structures for simplifying disclosure of fund expenses.....arguing that fund investors are more interested in the total amount of these expenses than how they are allocated among the various mutual fund service providers. These ideas merit careful consideration, as the Commission weighs the costs and benefits of existing disclosure requirements against loss of granular information that might disclose more clearly who is being paid what in connection with selling and owning particular funds.

Some people have recommended elimination of Rule 12b-1. I urge the Commission to consider all consequences of this course of action, including a probable return to captive structures of investment managers grouped within captive sales and distribution entities, further concentration of the investment management industry, and limitation of investor choice.

Sincerely,

Brian McMahon
President & Chief Investment Officer
Thornburg Investment Management

