

Before the
SECURITIES AND EXCHANGE COMMISSION
100 F Street, NE, Washington, DC 20549

Re: File Number S7-08-15
Investment Company Reporting Modernization

COMMENTS OF THE FREE COMMUNITY PAPER INDUSTRY

The Mid-Atlantic Community Papers Association and Association of Free Community Papers, on behalf of Community Papers of Michigan, Free Community Papers of New York, Community Papers of Florida, Midwest Free Community Papers, Community Papers of Ohio and West Virginia, Southeastern Advertising Publishers Association, Texas Community Newspaper Association, Wisconsin Community Papers and Independent Free Papers of America (collectively “Community Papers”), submit these Comments in response to the Commission’s Notice of Proposed Rulemaking. Our comments focus specifically on the Commission’s proposed new rule 30e-3 under the Investment Company Act.¹

As a United Industry dedicated to securely disseminating vital information to America’s diverse demographic populations, we urge the Commission to retain the safety of paper documentation as the default means of shareholder reporting. We fully support allowing, encouraging and

¹ See SEC NPRM, Investment Company Reporting Modernization, at pp. 149 - 179.

otherwise directing investment companies to provide more timely and robust investment-related notices online on secure websites. And correspondingly, continue to allow for the opt-in choice of electronic delivery of some or all required reporting to investors. We believe that proposed new rule 30e-3 pushes “consent” beyond practical fairness to actual individual investors on Main Street, USA.²

Many commenters have correctly drawn attention to the certain disenfranchisement of large classes of investors. From our generations serving communities from rural to urban and all in between, we agree with those very real concerns, and believe that factor alone should drive a decision to maintain the current opt-in default. The investment companies and advisors covered in this Rulemaking have the resources, and would retain the option, of educating and encouraging their clients to “go paperless” by mutual choice.³

Community Papers’ concern, born in practice, with forced electronic migration involves data security, consumer privacy and a new “forced-risk” to consumers by orders of magnitude. The SEC has a duty to protect consumers, and therefore must take a candid look at the current “wild west” of digital communications. The Commission must account for the absence of Federal protections

² Essentially, one mailing, if not replied to within less than two months equals “prior consent of investors” *See Id* at p. 162: “The Initial Statement is designed to permit funds to infer that a shareholder has consented to electronic transmission of future shareholder reports by alerting the shareholder to the fact that the shareholder will no longer receive printed copies in the future unless the shareholder notifies the fund that he or she wishes to receive print copies of such reports in the future.” What happened to **actually “requiring prior consent of investors”?! See Id** at p. 154 Note: In other regulated environments, this could be considered “slamming” or other processes not akin to actual intent of subjects.

³ It would seem likely under the SEC’s digital cheerleading in selection of supporting evidence of consumer demand, that the overwhelming majority of Investors would have already voluntarily, proactively opted-in to the existing options for digital reporting. But then it also appears that the Commission has no clue on the instant baseline -- since it gets around to asking that fundamental question -- to the Regulated Industry: “To what extent have shareholders elected to receive disclosure documents and other information in general, and shareholder reports in particular, through electronic means? In the case of shareholders who have elected electronic delivery of disclosure documents in general, and delivery of shareholder reports in particular, to what extent are those shareholders accessing those materials online? Please provide supportive data to the extent available.” *Id* at 170.

for consumers relating to online Privacy, as well as for Data Breaches -- innocent victims can legally be left unaware, and completely on the hook for all damage done. At the minimum, “express consent” and not purpose-driven “implied consent” should hold⁴, with additional measures for data and privacy protections contemplated prior to adoption.

While we sincerely presume that the bona fide investment-related communicators will take robust steps to protect Data and ensure Privacy, the consumer still holds the disproportionate risk in the event of bad deeds -- and should therefore maintain the minimum protection of informed consent to opt-in. This would be a big deal in a vacuum -- but the real world digital “wild west” with countless examples of mega breaches coming almost daily, compels extra careful consideration of predictable threats from third-party actors -- both invitees and malicious intruders.

“Phishing” is unfortunately commonplace, and Proposed Rule 30e-3 could put tens of millions of citizens in a “digital barrel” -- all together overnight, without their affirmative consent, unprotected by privacy and data laws that still don’t exist. There is no need to guess whether a barrage of fraudulent emails claiming to be mandated by “new rules” will hit email inboxes by the millions, because they will -- but at least those who proactively opted-in to receive such electronic correspondence will have a better chance of discerning the real versus malicious.⁵

⁴ “Should we permit funds to obtain implied consent, as proposed, or should we require funds to receive express consent?” *Id* at p. 173 -- Community Papers Reply: Absolutely express consent, bona fide opt-in, affirmative and proactive in all cases is our strenuous suggestion.

⁵ “In the time since this investor testing was conducted, access to and use of the Internet has continued to increase significantly, including among demographic groups that have previously been less apt to use the Internet” *See Id* at p. 152. -- Seriously: In the same time period, even our own Federal Government has been hacked, with the most likely scenario being sophisticated “phishing” according to consensus reporting. None of the reports cited deal with the growing security concerns, almost daily mega breaches -- and the lack of legal protections for citizens, consumers and here, investors. More current “testing” might well reveal heightened concerns -- and again, the SEC doesn’t even have an accurate baseline matching “we think they will” versus “what are investors really doing now” since they have actually had this “option” for quite some time now.

Similarly, consumers with the digital literacy and proactive preference to communicate digitally with these financial institutions will more likely have a clue that their internet travels are tracked and shared by countless third-parties -- and that viewing history on their investment company's website will be added to their unique profile on scores of proprietary databases they may or may not know exist. Forcing all stakeholders into the "digital wild west" of ubiquitous data gathering, tracking and targeting -- without informed consent or any consideration whatsoever as to their levels of digital literacy or consequent risks -- is quite possibly the opposite of consumer protection.

The rush to "paperless" ignores critical "Digital Divides" that still form the physical reality of 2015 America. First, there is the access and adoption disconnect, where significant populations are not online. Second, there is the staggering spectrum of "digital literacy and illiteracy" that hampers effective use of emerging tools, and corresponding measures for basic self-protection from legitimate data-gatherers and fraudsters alike. And lastly, there is the overwhelming divide of responsibility -- and ultimately liability -- with the citizen and consumer bearing virtually all of the risks of any ultimate outcome of their digital experience. For these reasons, bolstered by the prudence of real and active consent as sound policy, we urge the SEC to keep the current safety and accessibility of printed documentation in place -- and continue to allow for secure opt-in mechanisms for digital communications.

Respectfully submitted,

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