MEMORANDUM

To: File No. S7-08-15

From: Jonathan Carr, Counsel to Commissioner Hester Peirce

Re: Meeting with Representatives of Consumer Action, Domtar Paper, Tonio Burgos & Associates for Twin Rivers Paper, Hallmark Cards, and the Coalition for Paper Options – POC

On May 21, 2018, Commissioner Hester Peirce and Jonathan Carr and Thaya Knight, Counsels to Commissioner Peirce, met with the following individuals:

- Linda Sherry, Consumer Action
- Tom Howard, Domtar Paper
- Steve Fier, Tonio Burgos & Associates for Twin Rivers Paper
- Rafe Morrissey, Hallmark Cards
- John Runyan, the Coalition for Paper Options – POC

Among the topics discussed were the Commission's proposed new rule 30e-3 under the Investment Company Act, Investment Company Act Release No. 31610 (May 20, 2015).

Recommendation of the Investor as Purchaser Subcommittee Regarding Promotion of Electronic Delivery and Development of a Summary Disclosure Document for Delivery of Investment Company Shareholder Reports

Background

- As a large majority of investors have gained access to the Internet and become comfortable using it for a variety of purposes, including researching investments, mutual fund companies and other securities firms have sought to reduce disclosure delivery costs by speeding the transition to electronic delivery of mutual fund disclosure documents.[1]
- Investor advocates have also noted the potential for electronic delivery to enhance the quality and timeliness of disclosures, including by promoting greater use of layered disclosures,[2] but only if the transition to electronic delivery occurs in a way that maximizes the likelihood that investors will see and read those disclosures.
- While investor acceptance of electronic delivery has grown in recent years, nearly half of investors (49%) still prefer to receive paper disclosures through the mail, compared with only 33% who prefer to receive disclosures electronically, either through email (27%) or accessing them online (6%), according to recent survey data from the FINRA Investor Education Foundation.[3]
- In May 2015, the Commission proposed Rule 30e-3 to allow mutual fund companies to default investors to electronic delivery of annual shareholder reports based on negative consent.[4] While the proposal enjoyed strong support from the fund industry, who noted its potential to reduce costs, it met with significant resistance from investor advocates, who maintained that an approach that relies on website disclosure and negative consent would reduce the likelihood that investors would see and read the disclosure documents.
- During discussions of the issue, including at a meeting of the IAC, both fund industry representatives and investor advocates voiced strong support for a layered approach to disclosure for annual shareholder reports, modeled on the summary prospectus rule, in which investors would receive a brief summary of key information from the annual report in a disclosure notifying them of the full report's availability.
- It has been suggested that allowing funds to satisfy their delivery obligations through delivery of a summary document could produce many of the cost savings associated with the SEC's 30e-3 proposal without presenting the same concerns that disclosure effectiveness would be compromised.

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[1] Electronic delivery of disclosure has been permitted under guidance adopted by the Securities and Exchange Commission (SEC) in the mid-1990s, subject to notice, access, and delivery requirements. See, e.g., SEC Release NO. 33-7233; 34-36345; IC-21399, https://www.sec.gov/rules/concept/33-7233.txt.

[2] See, e.g., Roper, Barbara, "Can the Internet Transform Disclosures for the Better?" Consumer Federation of America, January 2014 http://bit.ly/1CwEbJS

[3] FINRA Investor Education Foundation, "Investors in the United States 2016," December 2016, available at http://bit.ly/2hMrppX.

[4] To date, the SEC has not approved the rule proposal.

Recommendation

The Investor Advisory Committee recommends that the Commission continue to explore methods to encourage a transition to electronic delivery that respect investor preferences and that increase, rather than reduce, the likelihood that investors will see and read important disclosure documents. In the meantime, the IAC recommends that the Commission explore development of a summary disclosure document for annual shareholder reports that incorporates key information from the report along with prominent notice regarding how to obtain a copy of the full report. The summary document should be designed to be delivered either by mail or by email, depending on the investors' delivery preferences. It should also incorporate a layered disclosure approach, including the ability of those getting the document electronically to click through to more detailed disclosure on a particular topic.The Committee recommends that the Commission seek public comment on the appropriate content and format of such a disclosure document, as well as on the advisability of the suggested approach more generally. The Committee further recommends that the Commission engage in investor testing of the proposed disclosure, or encourage testing by industry members, to ensure that the proposed approach delivers the expected benefits of reducing costs for funds and distributors without sacrificing disclosure quality.

Discussion

In May of 2015, the Commission proposed a broad package of new rules and amendments to existing rules with a goal of modernizing Investment Company reporting.[5] Included in the package was a proposed new rule 30e-3 under the Investment Company Act, which would permit mutual fund companies to satisfy their delivery requirements for periodic shareholder reports by making the reports accessible on a website and meeting certain other conditions. To satisfy the rule, the fund's report to shareholders would have to be publicly accessible, free of charge, at a specified website address. The rule would permit funds to default investors to electronic delivery based on negative consent where the investor had received written notice, at least 60 days prior to the time the company planned to begin relying on the rule, notifying the shareholder of the fund's intent to make future shareholder reports available on the fund's website until the shareholder revokes consent. In addition, fund companies would be required under the proposed rule to provide separate notice to shareholders each time a report is posted, alerting shareholders to the availability of the report online and providing them with information on how to obtain a paper copy if they want one.

The proposal received strong support from the fund industry. The Investment Company Institute wrote, for example, to express its enthusiastic support for adoption of rule 30e-3.[6] "Not only would the proposed rule satisfy investor preferences, it has the potential to save fund shareholders an estimated $140 million per year on a net basis in the first three years of adoption," ICI wrote. ICI urged the Commission to extend the implied consent delivery approach to prospectuses and suggested other changes to eliminate certain aspects of the notice

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[5] SEC File No. S7-08-15, Investment Company Reporting Modernization, May 20, 2015 http://bit.ly/1Pp1qwt

[6] August 11, 2015 letter from ICI General Counsel David W. Blass to SEC Secretary Brent J. Fields, regarding Investment Company Reporting Modernization and Amendments to Form ADV and Investment Adviser Act Rules, File Nos. S7-08-15 and S7-09-15 http://bit.ly/2vbAy1o

requirements, including, for example, the requirement to provide shareholders with a pre-addressed, postage paid reply form to use if they preferred to receive the reports in paper. Similarly, the Independent Directors Council wrote to express its view "that proposed rule 30e-3 would deliver significant benefits to fund shareholders, without impeding investor protection concerns."[7] The letter states that, "The benefits of online delivery of shareholder reports are straightforward and significant. The potential cost savings for funds and, ultimately, their shareholders is unequivocally the primary benefit."

The proposal was strongly opposed by certain investor advocates, who objected in particular to the rule's reliance on negative consent to default investors to electronic delivery via website posting of the reports. Consumer Action and National Consumers League, for example, wrote in opposition to the proposal, stating that "the true cost of Rule 30e-3 is decreased transparency and investor access to information."[8] These consumer groups noted that, while consumers want to have access to information online, research suggests a majority of consumers prefer to receive important disclosure documents in paper. They noted that investors who prefer electronic delivery already have that option, and the rule "only increases the work investors [who prefer paper delivery] must exercise to preserve their choice." Consumer Federation of America also wrote in opposition to the rule, stating that the Commission had failed to make the case that the rule was "either needed or warranted."[9] CFA wrote that, "we simply have not yet reached the point in this country where a sufficient percentage of investors prefer to receive disclosures electronically to justify a default to electronic delivery. While we feel certain that day will eventually arrive, a premature move to electronic delivery based on implied consent ensures that fewer investors will receive and review the important disclosures these documents are intended to provide."

The Investor Advisory Committee had a panel presentation and discussed the issue at its July 2016 meeting.[10] While supporting views were also expressed, a number of IAC members voiced opposition to the proposal's reliance on negative consent to change the delivery default and suggested that potential savings to shareholders were insufficient to justify the proposed change. Over the course of the discussion, however, a number of participants expressed support for a layered approach to disclosure, using a summary document modeled loosely on the mutual fund summary prospectus.

Ultimately, the Commission approved the broader package of Investment Company reporting reforms in October of 2016 without including proposed rule 30e-3.

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[7] May 10, 2016 letter from IDC Managing Director Amy B.R. Lancellotta to SEC Secretary Brent J. Fields, regarding Supplemental Comments on Investment Company Reporting Modernization; File No. S7-08-15 http://bit.ly/2uypzvv

[8] April 12, 2016 letter from Consumer Action Director of National Priorities Linda Sherry and National Consumers League Executive Director Sally Greenberg to SEC Secretary Brent J. Fields, regarding Investment Company Reporting Modernization Proposed Rule; Release Nos. 33-9776; 34-75002; IC-31610; File No. S7-08-15; S7-16-15 http://bit.ly/2vFQk67

[9] July 29,2015 letter from CFA Director of Investor Protection Barbara Roper to SEC Secretary Brent J. Fields, regarding Investment Company Reporting Modernization, File No. S7-08-15 http://bit.ly/2vGd463

[10] July 14, 2016 meeting of the SEC Investor Advisory Committee webcast http://bit.ly/2vGetJS

Since that time, the Investor-as Purchaser Subcommittee has explored development of a summary document along the lines discussed by the IAC. As conceived by the Subcommittee, the document would include prominent notice of the availability of the full report and information on how to obtain it, along with key highlights from the report itself. For example, the document might include information on fund costs, performance and fund holdings. The IAC believes an approach along these lines has the potential to deliver cost savings to industry without unduly compromising disclosure effectiveness. We therefore recommend that the Commission further explore this approach through investor testing, either through field tests or other means. Based on the findings of that investor testing, the Commission should consider further rulemaking, with an opportunity for public comment on the proposed approach as well as the details of the content and format for the proposed enhanced notice document.

The IAC further believes that the Commission should continue to explore alternative approaches to encourage the transition to electronic delivery. In doing so, it should seek to ensure that investor preference regarding delivery methods is respected, including by continuing to distinguish between investors' preferences with regard to research, where a large majority prefer accessing information on the Internet, and delivery of disclosures, where a plurality appears to continue to prefer receiving paper documents through the mail. In addition, the Commission should encourage development of approaches to electronic delivery that promote, rather than reduce, the likelihood that investors will see and read the disclosures. And it should engage in testing to help determine, to the extent possible, that its proposed approach has the intended effect.

Accessing Annual and Semiannual Mutual Fund Reports Affect Investor Behavior?

Forrester Consulting Report for Broadridge Financial

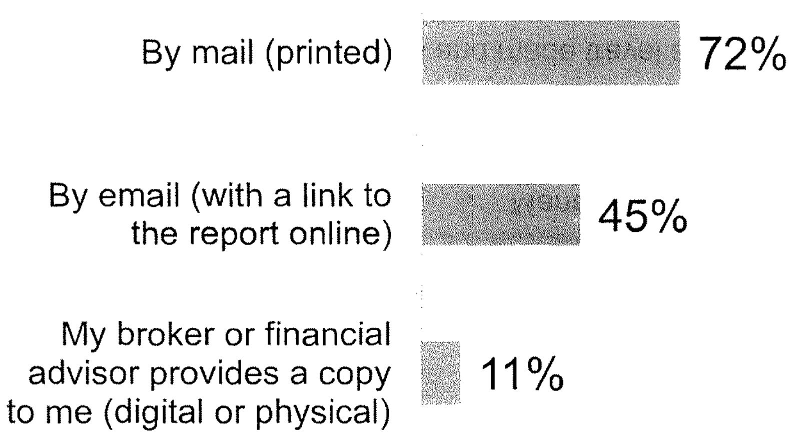
What the research reveals

- A strong majority of respondents prefer to receive annual and semiannual fund reports by traditional mail; older investors in particular prefer the mail channel.
- A majority of respondents prefer the way they currently receive reports — by mail — to the approach proposed by the SEC. They not only value receiving the reports by mail as a means of making them aware of the reports, but many also save these mailed copies of the reports for future use.
- Among all the groups most affected by the proposed SEC change, those who look through reports they receive by mail (Mail-Receipt Lookers) are less likely to continue looking and reading these reports if the proposed SEC change is implemented.
- Respondents who do not favor the proposed rule believe that it will take additional effort and expense to obtain reports via mail, and they believe this change will add inconvenience.
- When presented with three alternative options, the majority of respondents say they would prefer to receive a summary report by mail. All investors across age groups and demographics agree that the most important piece of information is the performance summary.
- Forrester Consumer Technographics data supports the survey findings, as investors are already less likely to read annual reports online than to conduct many other online activities.

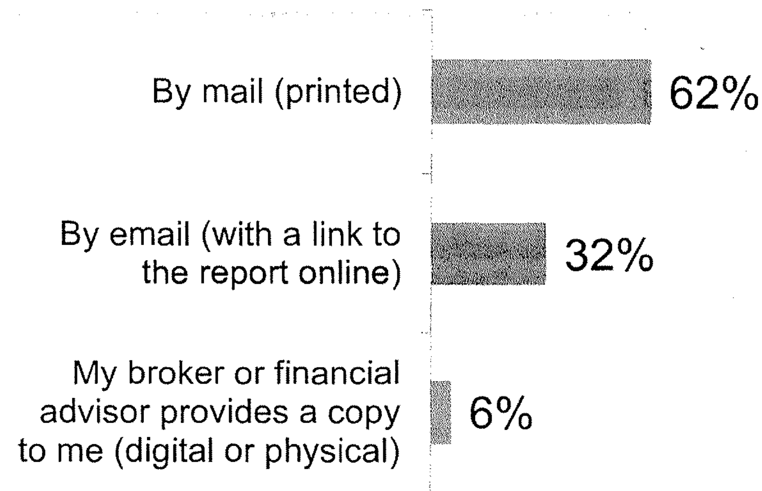
Mail is the primary method for receiving annual and semiannual reports

"How do you currently receive or get shareholder reports (annual reports and/or semiannual reports) from your mutual fund and/or ETF companies?"

(Select all that apply)



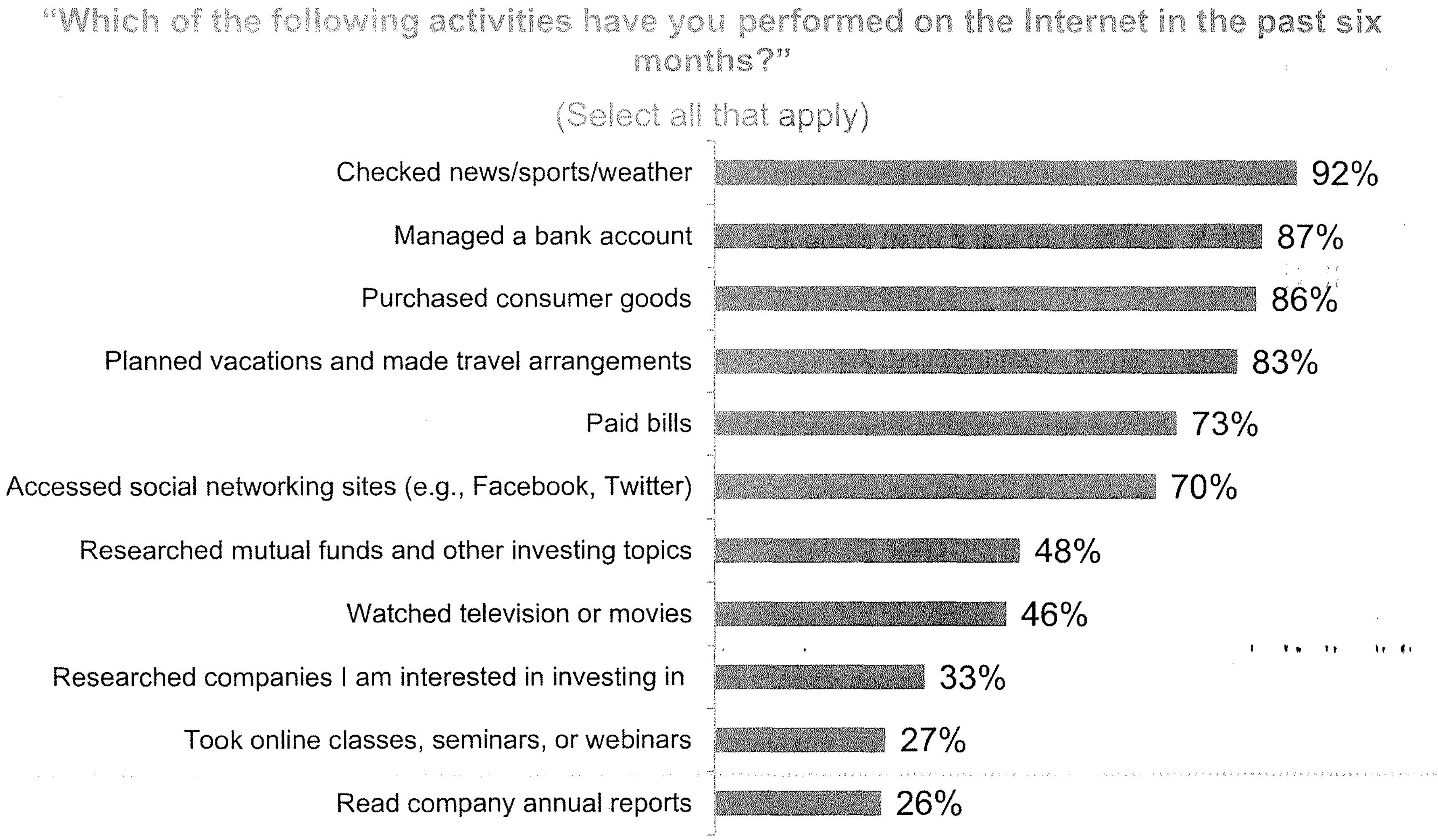
"Which of the following is *your primary method* for receiving or getting shareholder reports (annual and/or semiannual fund reports) from your mutual fund and/or ETF companies?"



Base: 1,037 total respondents

Source: Forrester Research and Broadridge Custom Survey, 2015 (Q.1.M and Q.2.M)

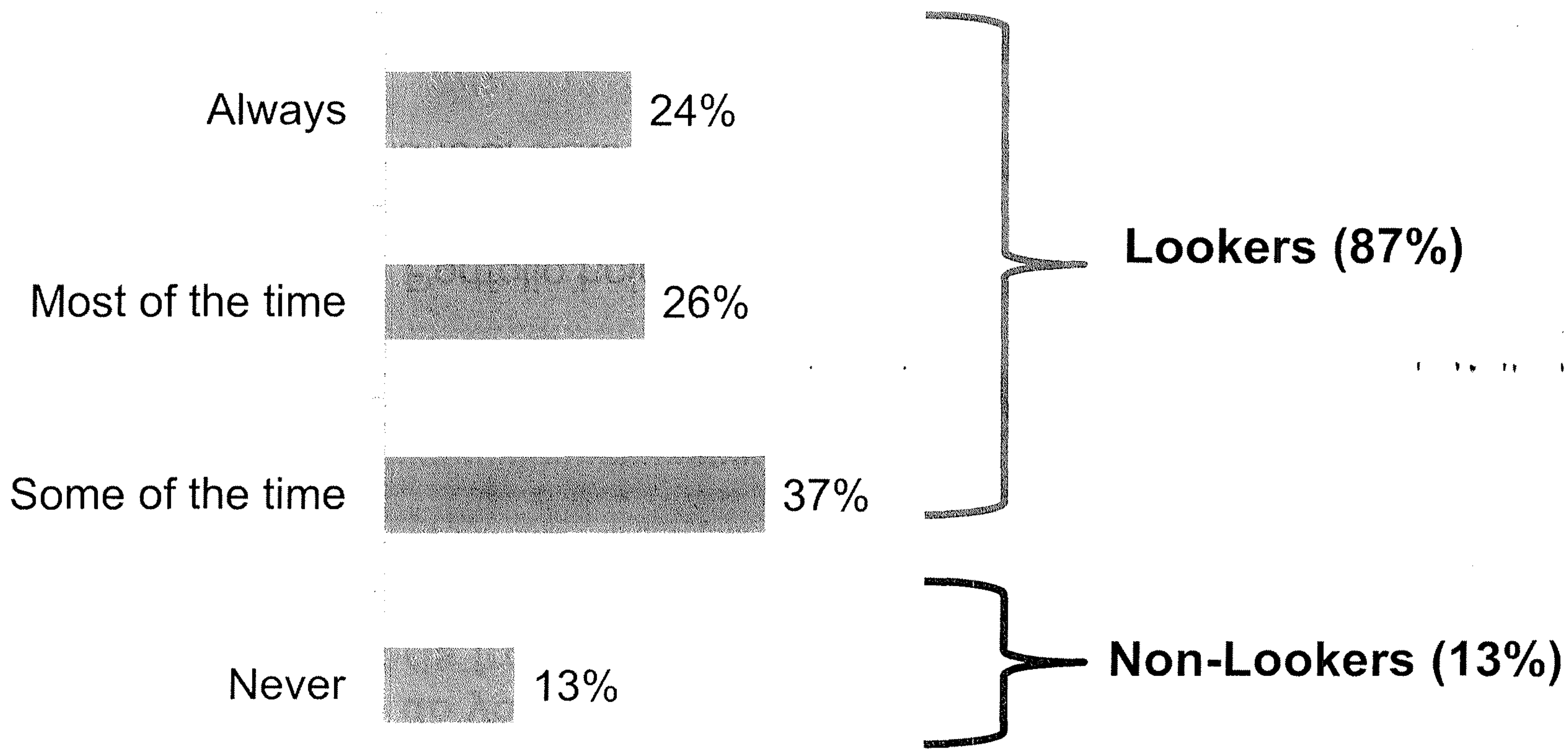
Investors are less likely to read annual reports online than to conduct many other activities



Base: 751 Receive by Mail
Source: Forrester Research and Broadridge Custom Survey, 2015 (Q.02.DM)

The majority of those receiving reports do take the time to "look"

"When you receive or get shareholder reports (annual and/or semiannual fund reports), how often do you look at them?"

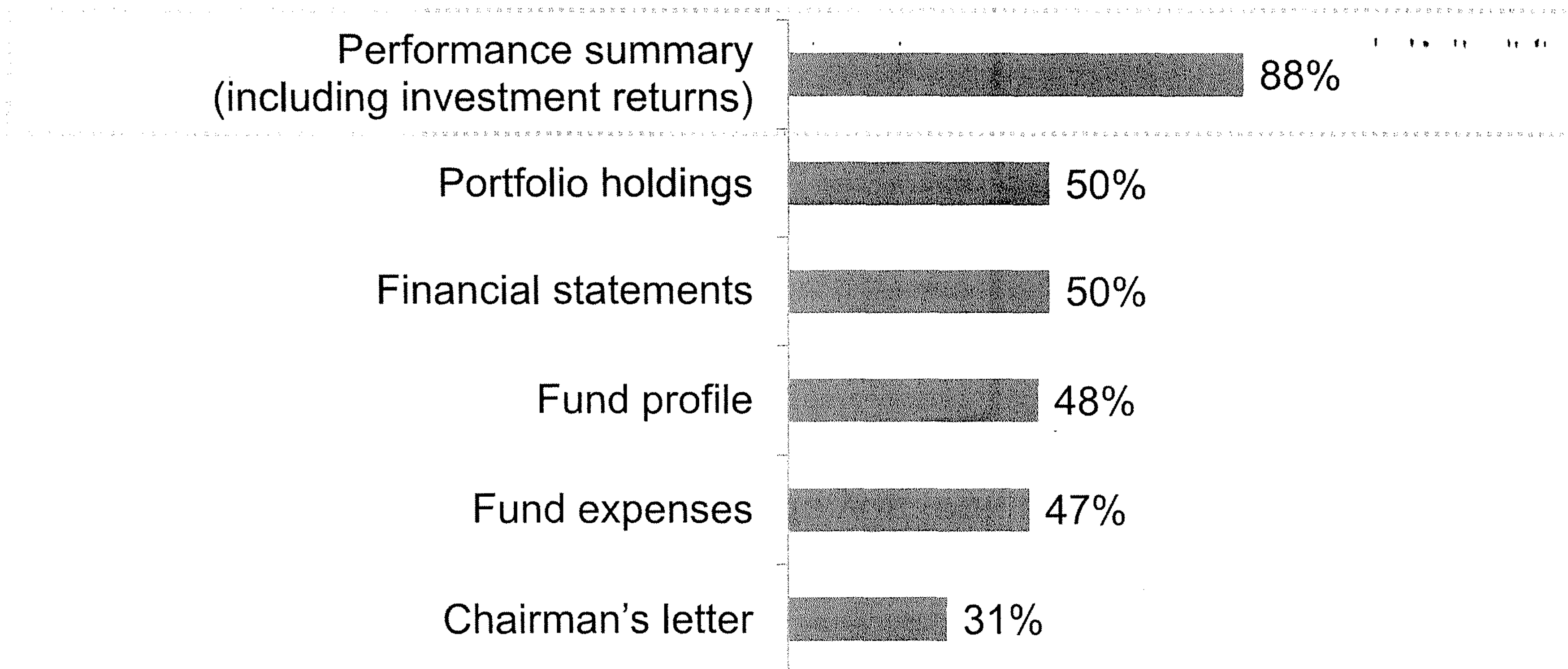


Base: 1,037 total respondents
Source: Forrester Research and Broadridge Custom Survey, 2015 (Q.3.M)

"Lookers" care most about the performance summary

"What information do you look at in your annual reports and/or semiannual reports from mutual fund or ETF companies?"

(Select all that apply)

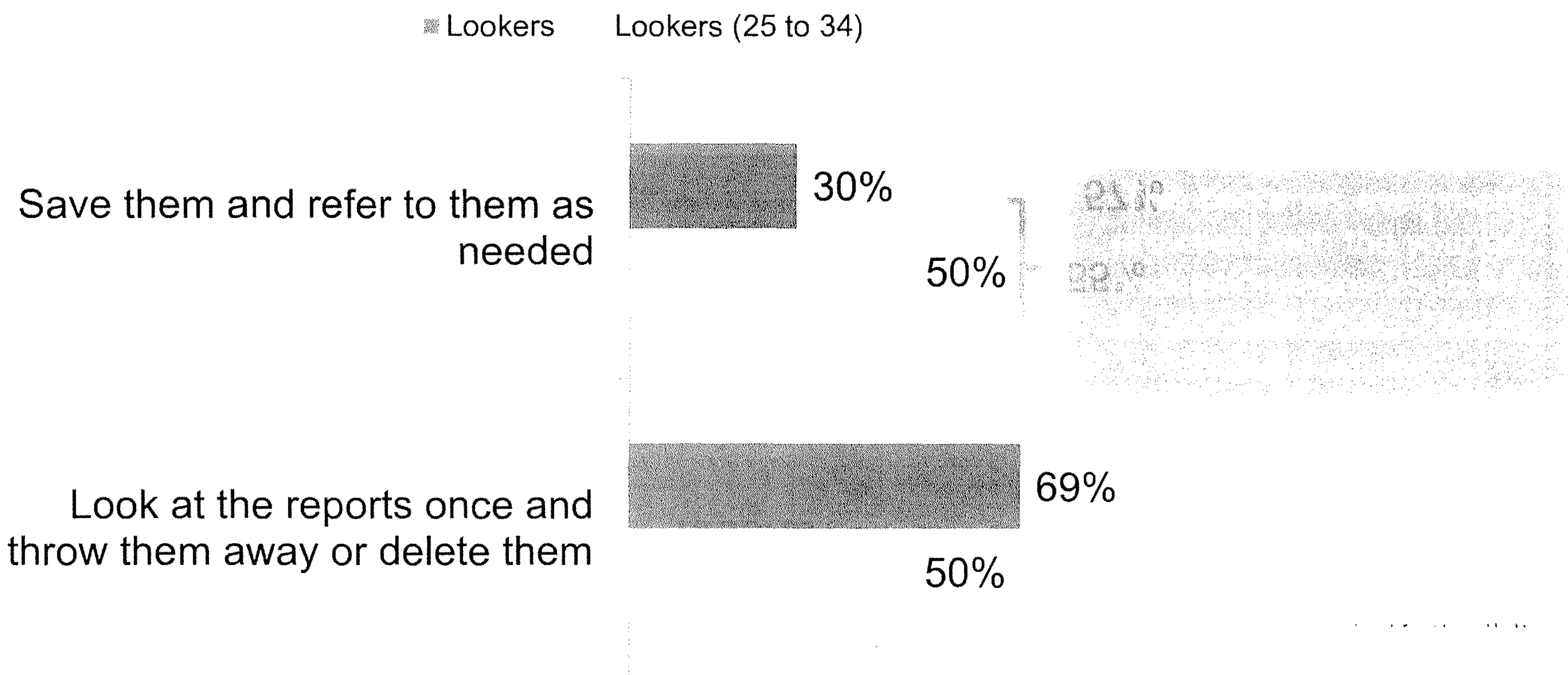


Base: 904 Lookers

Source: Forrester Research and Broadridge Custom Survey, 2015 (Q.6.M)

About a third of "Lookers" save these reports for future reference — especially younger investors

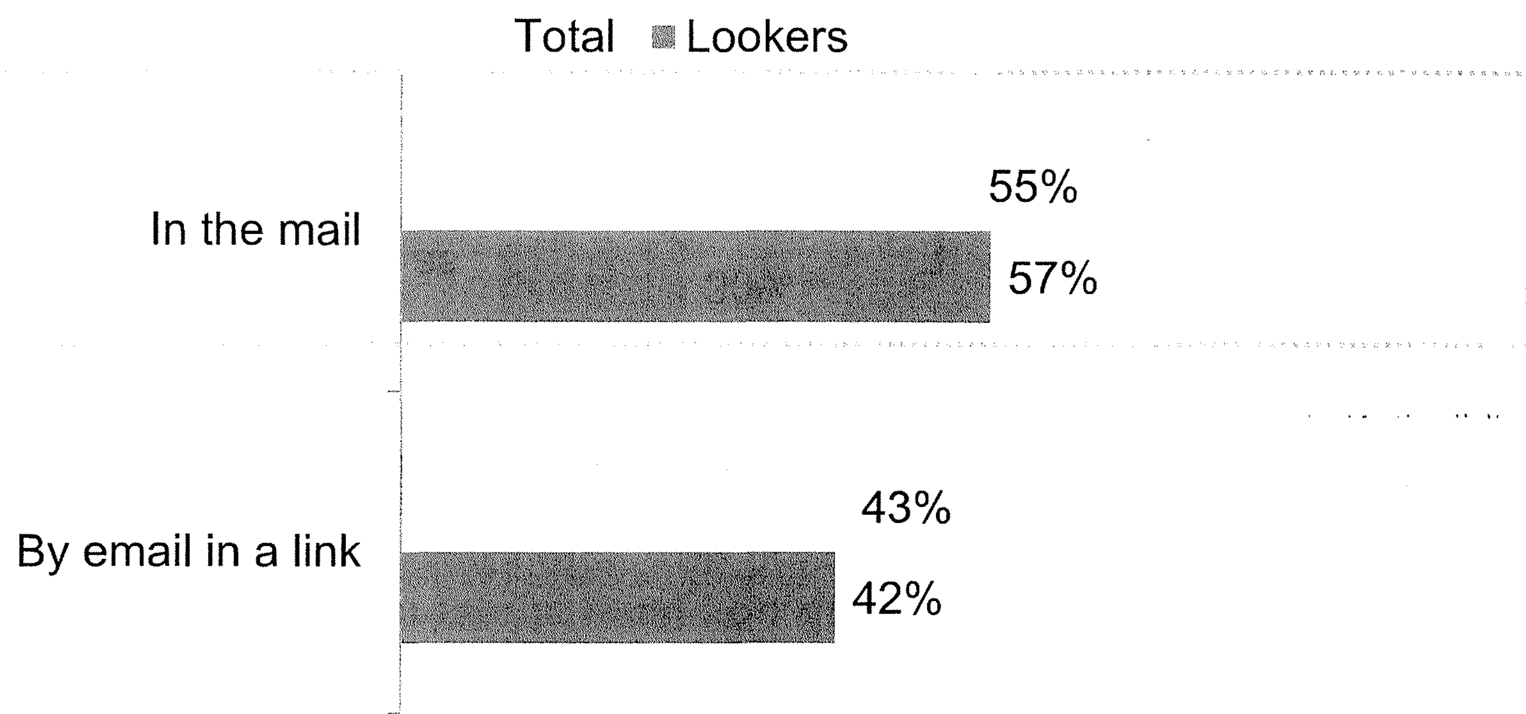
"Which of the following represents what you do with annual reports and/or the semiannual reports after you have reviewed them?"



Base: 904 Lookers; Lookers Ages 25 to 34: 113
Source: Forrester Research and Broadridge Custom Survey, 2015 (Q.11.M)

Over half of all respondents and "Lookers" *prefer* to receive reports via mail . . .

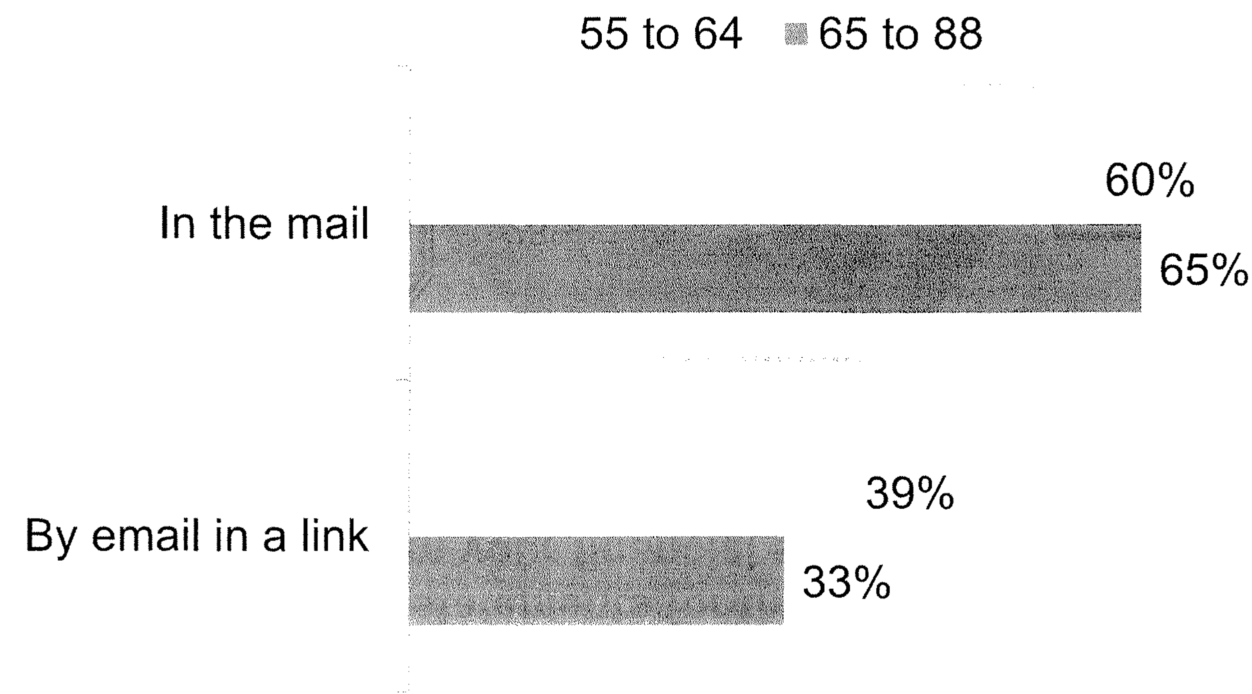
"How do you currently prefer to receive your annual and semiannual fund reports?"



Base: Total: 1,037; 904 Lookers
Source: Forrester Research and Broadridge Custom Survey, 2015 (Q.12.M)

. . . and mail is even more preferred by investors who are 55 years and older

"How do you currently prefer to receive your annual and semiannual fund reports?"



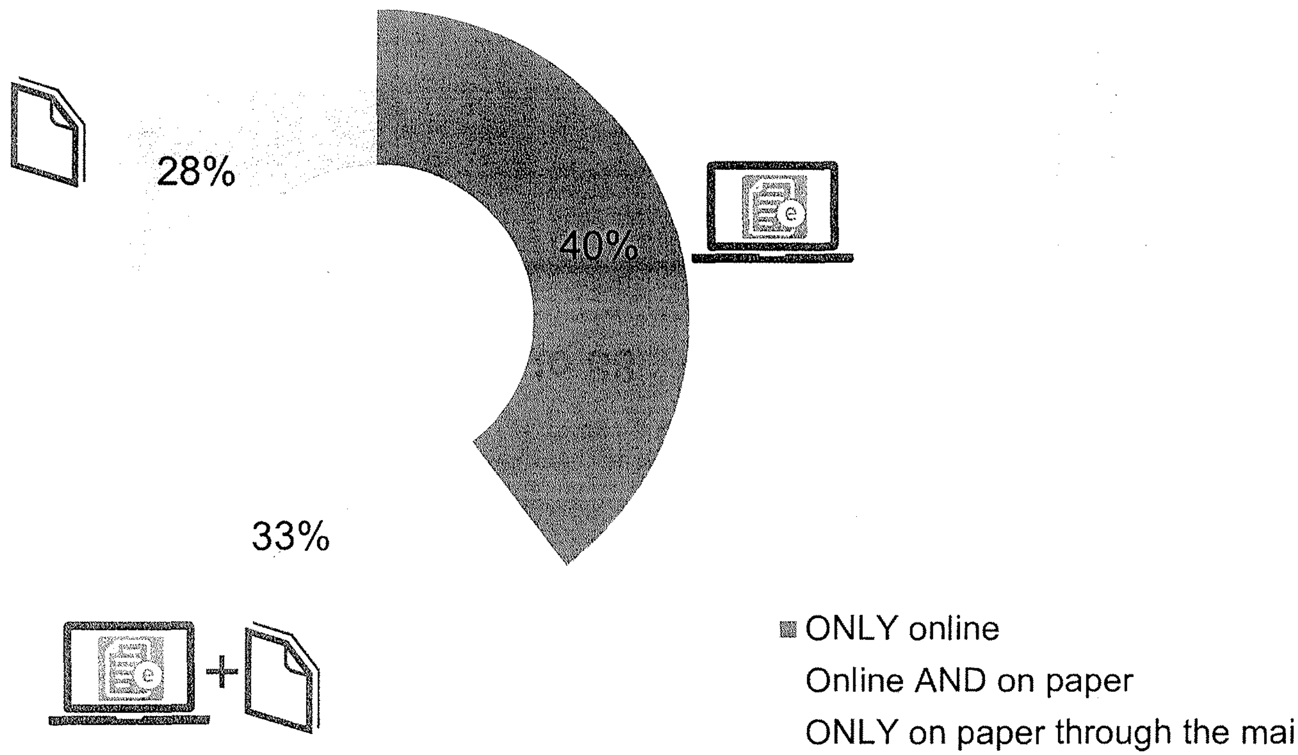
Base: 55 to 64: 226; 65 to 88: 234
Source: Forrester Research and Broadridge Custom Survey, 2015 (Q.12.M)

Most fund investors still prefer to receive account statements on paper through the mail, according to Forrester's Consumer Technographics research

"How do you receive statements for the following financial products/accounts from your financial services providers?"

Mutual fund/ETFs

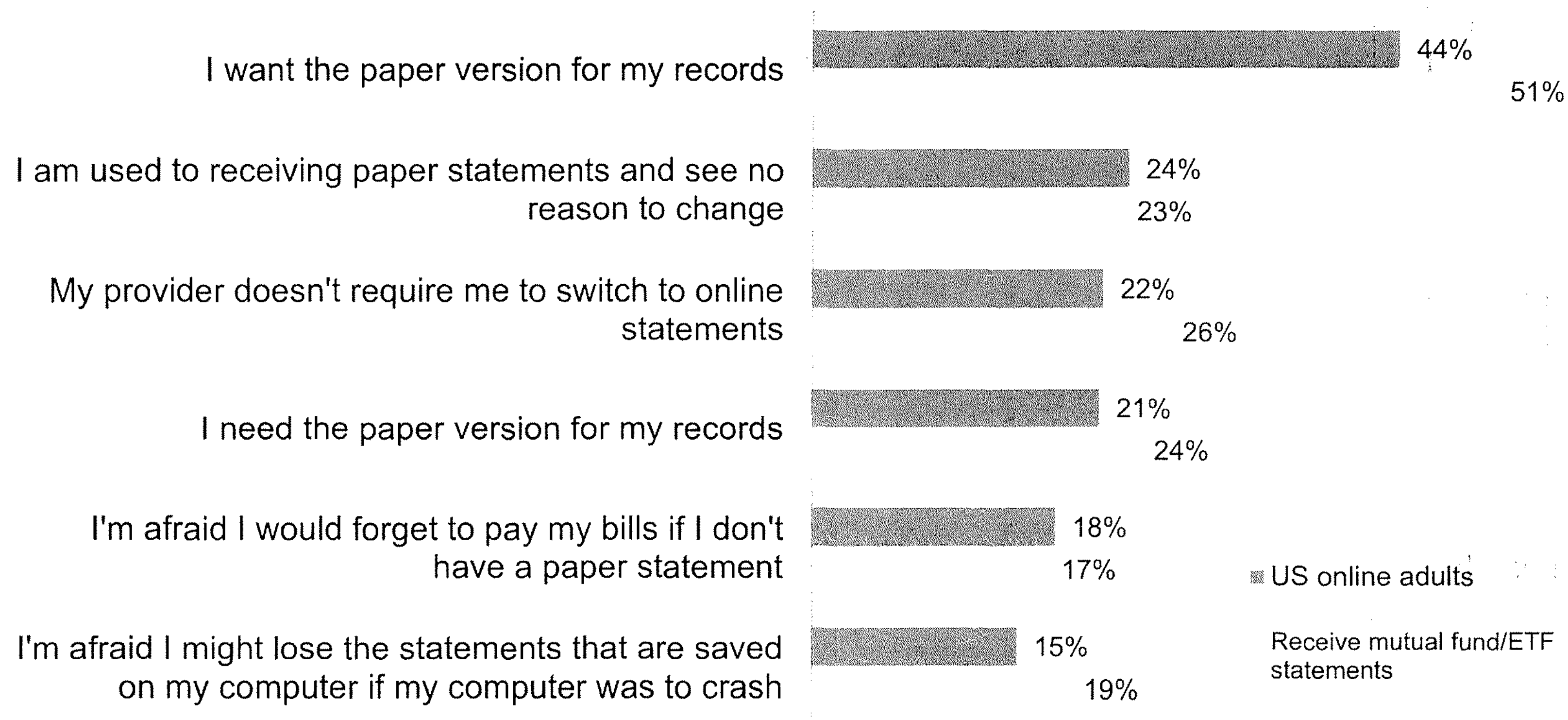
Type of statements among those who receive for mutual fund/ETFs



Base: 1,142 US online adults who receive mutual fund/ETFs statements. Percentages do not add up to 100% due to rounding
Source: North American Consumer Technographics Financial Services Online Benchmark Recontact Survey, 2014

The research also shows that across all financial products, consumers cite strong reasons for continuing to receive paper statements

"Why have you chosen to continue receiving paper statements for your financial products/accounts?"
(*Any* financial product)



Base: Respondents who receive statements for *any* financial products/accounts by "only on paper through the mail" *or* "online and on paper": 7,064 US online adults; 976 US online adults who receive mutual fund/ETF statements
Source: North American Consumer Technographics Financial Services Online Benchmark Recontact Survey, 2014

MIND

The Reading Brain in the Digital Age: The Science of Paper versus Screens

E-readers and tablets are becoming more popular as such technologies improve, but research suggests that reading on paper still boasts unique advantages

By Ferris Jabr on April 11, 2013

Credit: Robert Drózd, Wikimedia Commons

In a viral YouTube video from October 2011 a one-year-old girl sweeps her fingers across an iPad's touchscreen, shuffling groups of icons. In the following scenes she appears to pinch, swipe and prod the pages of paper magazines as though they too were screens. When nothing happens, she pushes against her leg, confirming that her finger works just fine—or so a title card would have us believe.

The girl's father, Jean-Louis Constanza, presents "A Magazine Is an iPad That Does Not Work" as naturalistic observation—a Jane Goodall among the chimps moment—that reveals a generational transition. "Technology codes our minds," he writes in the video's description. "Magazines are now useless and impossible to understand, for digital natives"—that is, for people who have been interacting with digital technologies from a very early age.

Perhaps his daughter really did expect the paper magazines to respond the same way an iPad would. Or maybe she had no expectations at all—maybe she just wanted to touch the magazines. Babies touch everything. Young children who have never seen a tablet like the iPad or an e-reader like the Kindle will still reach out and run their fingers across the pages of a paper book; they will jab at an illustration they like; heck, they will even taste the corner of a book. Today's so-called digital natives still interact with a mix of paper magazines and books, as well as tablets, smartphones and e-readers; using one kind of technology does not preclude them from understanding another.

Nevertheless, the video brings into focus an important question: How exactly does the technology we use to read change the way we read? How reading on screens differs from reading on paper is relevant not just to the youngest among us, but to just about everyone who reads—to anyone who routinely switches between working long hours in front of a computer at the office and leisurely reading paper magazines and books at home; to people who have embraced e-readers for their convenience and portability, but admit that for some reason they still prefer reading on paper; and to those who have already vowed to forgo tree pulp entirely. As digital texts and technologies become more prevalent, we gain new and more mobile ways of reading—but are we still reading as attentively and thoroughly? How do our brains respond differently to onscreen text than to words on paper? Should we be worried about dividing our attention between pixels and ink or is the validity of such concerns paper-thin?

SEC RULE 30E-3: PAPERLESS MUTUAL FUND REPORTING PROPOSAL WOULD IMPEDE READERSHIP & FINANCIAL LITERACY

Shareholder Reports, Investor Awareness & the Problem of Implied Consent

The U.S. Securities and Exchange Commission (SEC) proposed Rule 30e-3 to eliminate the current default requirement for mutual funds to transmit important information to investors in paper form might seem innocuous, but hard-copy shareholder reports are **a critical and widely read resource for investors.**

Evidence and experience show that arbitrarily providing shareholder reports online, as Rule 30e-3 would do, **will decrease both access and readership**.

Shareholder reports are critical and widely-read sources of information, especially if delivered in paper form.

- A 2015 survey of 1,000 mutual fund investors found that **92 percent of investors who receive shareholder reports by mail indicated viewing them**.[i]
- A recent SEC study indicates that baseline **awareness of mutual fund reports ranges from 86-91 percent**.[ii]
- **More than 70 percent of** one group of investors responding to an SEC-commissioned survey said they prefer to **read annual reports in hard copy format**; only **10 percent prefer online-only**.[iii]

Ample evidence shows that investors are more likely to read paper-based shareholder reports – and they prefer them as the default.

- Mutual fund investors who say they would be **likely to look at fund reports under current delivery methods** (with paper as the default and electronic as an option) outnumber those who would be likely to look at fund reports under the proposed method **by a factor of 3 to 1**.[iv]
- Research indicates that Rule 30e-3 would **reduce readership of shareholder reports by more than 80 percent**. The projected negative impact will be on individuals who hold an estimated 115 million or more fund positions (the number of positions for which a mailed report would otherwise be sent) in FY2018.[v]
- **Mutual fund shareholders ages 65 and older** reported a preference for the current delivery method over the proposed rule **by a factor of 4 to 1**.[vi] In addition, a 2012 AARP survey similarly found a **strong preference for paper, even among members with email addresses**.[vii]

The SEC has tried the same scenario before with proxy materials, and readership and participation declined considerably.

- The SEC in 2005 adopted a "notice and access model" permitting issuers to post proxy materials online and provide shareholders with a notice of the Internet availability. Previously, hardcopy was sent by default unless investors indicated a preference for electronic delivery.[viii] This process was used by the SEC as the model for Rule 30e-3.
- Prior to the notice and access model, surveys by AARP, NYSE and Broadridge found that over 85 percent of respondents looked at proxy information at least some of the time. Following implementation of the notice and access model, **less than one-half of 1 percent of those who received notification by mail visited the URL** and chose to view the disclosure information.[ix]
- **Companies found decreases in investor participation** of over 30 percent for large investors, and over 60 percent for smaller investors.[x]
- Proxy voting by the retail investors who are affected by the **rules decreased by approximately 75 percent**.[xi]
- Three years after the e-delivery rule, more than two million investors who initially enrolled in e-delivery subsequently rescinded their consent. In exit surveys, **more than half indicated their decision was due to a preference for hard-copy**.[xii]

Rule 30e-3's policy of implied consent is well-known to decrease consumer participation, and the SEC has been warned before.

- Columbia University Business School professor Eric J. Johnson, cautioned against the e-proxy delivery rule, noting: "Every decision has a default or a choice that is made when we take no action ... **Evidence is that the choice of "no action default" can substantially change the behavior of customers**...Such a system could **decrease use of information and participation** ... Given that danger, the SEC might well want to proceed with caution...Since the effect of opting-in is **likely to impact whether or not an individual looks at information**."[xiii]

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[i] *Annual Report and Semi-Annual Report Notification Study: Understanding the impact of providing investors with mutual fund and ETF report notifications*, True North Market Insights (June, 2015).
[ii] *Investor Testing of Mutual Fund Shareholder Reports*, Siegel & Gale Report to the SEC (2011; Revised, 2012).
[iii] *Investor Testing of Mutual Fund Shareholder Reports*, Siegel & Gale Report to the SEC (2011; Revised, 2012).
[iv] *How Might the Proposed Rule on Accessing Annual and Semiannual Mutual Fund Reports Affect Investor Behavior*, Forrester Consulting on behalf of Broadridge Financial Solutions, Inc. (2015).
[v] *August 2015 Comments on Proposed Rule 30e-3, Investment Company Reporting Modernization, File Number S7-08-15*, Broadridge Financial Solutions, Inc
[vi] *How Might the Proposed Rule on Accessing Annual and Semiannual Mutual Fund Reports Affect Investor Behavior*, Forrester Consulting on behalf of Broadridge Financial Solutions, Inc. (2015).
[vii] *Letter to Sen. Susan Collins*, AARP (May 30, 2016).
[viii] *Securities Offering Reform*, SEC Release No. 33-8591 (July 19, 2005).
[ix] SEC Commissioner Luis A. Aguilar, *Ensuring the Proxy Process Works for Shareholders* (Feb. 19, 2015). Available: https://www.sec.gov/news/statement/021915-psclaa.html
[x] Fabio Saccone, *E-Proxy Reform, Activism, and the Decline in Retail Shareholder Voting*, The Conference Board (Dec. 2010). Referenced: https://www.sec.gov/news/statement/021915-psclaa
[xi] *Comments to the SEC re: Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Companies*, Broadridge Financial Solutions (February 28, 2008).
[xii] *Comments to the SEC re: Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Companies*, Broadridge Financial Solutions (February 28, 2008).
[xiii] Eric J. Johnson, *Defaults and Deciding to Use Information, A White Paper Reviewing the Role of Defaults in Decision Making: Implications for Investor Participation in the Proposed Notice and Access Scenario*, Columbia Business School (2006).

siegel
+ gale
simple is smart

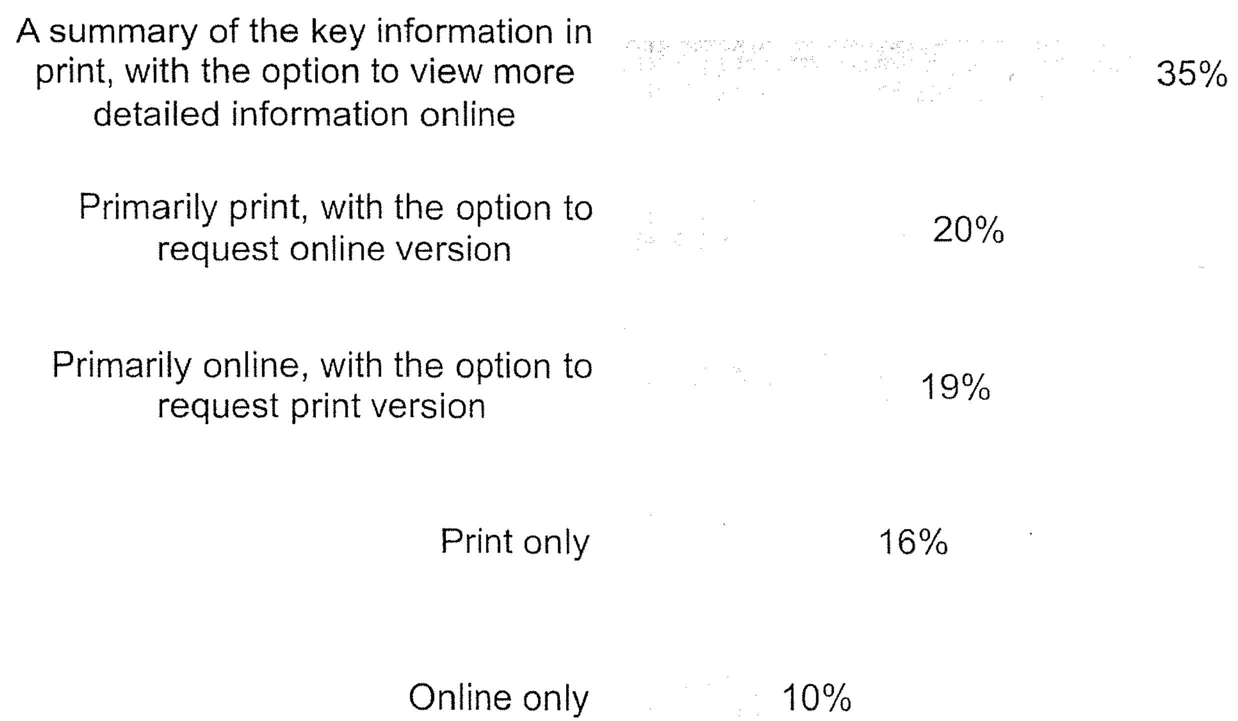
Investor Testing of Selected Mutual Fund Annual Reports (Revised)

Submitted to: The U.S. Securities and Exchange Commission
February 9, 2012

This study presents the findings of Siegel & Gale LLC and does not necessarily reflect the views of the U.S. Securities and Exchange Commission (SEC), its Commissioners, or members of the SEC's staff.

Homework assignment participants were divided regarding their preferences for reading an annual report in print or electronically

Q10. If you were to read a mutual fund annual report, how would you prefer to **read** it? Please select one response only.



Source: Siegel+Gale homework assignment completed by 105 mutual fund investors

There was a lack of consensus among online survey respondents regarding their preferences for their receiving information about their investments in print or electronically

Q1 . How would you prefer to **receive** information about your mutual fund investments?

Online through a link provided in an e-mail, with the option to request a print version	25.8%
In print through the mail, with a web address provided for an online version	19.5%
Online through a link provided in an e-mail	18.5%
A print summary of the key information through the mail, with a web address provided for a complete online version	16.5%
In print through the mail	13.8%
I don't have a preference	6.0%

Source: Siegel+Gale online survey of 400 mutual fund investors
Note: Figures do not add to 100% due to rounding

Americans Overwhelmingly Oppose SEC Rule 30e-3

After the SEC released its Investment Company Reporting Modernization rulemaking, **92%** of the **965** public comments were in direct opposition to just one section – Rule 30e-3, which would make electronic delivery the default delivery method for shareholder reports.

Nearly 1,000 Americans objected to Rule 30e-3 in comments to the SEC. Here are their reasons:

Concern for Seniors

55% of commenters oppose Rule 30e-3 because it disadvantages the elderly.

~ 1/2 of senior Americans do not own a computer, yet 34 percent of this population owns mutual funds.

Internet Access Limitations

38% of commenters oppose Rule 30e-3 because it requires Internet access and digital literacy.

33% of Americans lack reliable access to broadband Internet.

Exposure to Cybercrime

39% of commenters oppose Rule 30e-3 because of cybersecurity concerns.

$21 billion in losses are projected in the coming year due to tax-related identity theft, exacerbated by IRS efforts to force digital novices into electronic filing – and all too often into the traps of unscrupulous (and unlicensed) tax preparers.

Preference for Paper Investment Materials

84% of commenters oppose Rule 30e-3 because of a preference for paper-based investment materials.

~58% of American investors prefer to read annual shareholder reports in print rather than online, according to the SEC's own study commissioned by Siegel + Gale.