consumer action
Education and advocacy since 1971

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Investment Company Reporting Modernization (File No. S7-08-15)

Dear Secretary Fields:

I am writing on behalf of Consumer Action[1] to express our opposition to proposed new Rule 30e-3, which would permit mutual funds to shift the default for delivery of certain shareholder reports from delivery of paper documents by mail to electronic delivery. We feel that this rule change is neither needed nor warranted.

This proposal does not align with the mission of the Securities and Exchange Commission (SEC) to protect investors. Providing financial disclosure is central to the agency's mission and the 30e-3 proposal in its current form would not improve disclosure for those who prefer print and do not want to shift to e-delivery.

Here are some of the groups we believe would be negatively affected by the proposal, and how adequate disclosure would suffer under the plan:

- **The majority of American investors don't want e-delivery of investment information.** The SEC's e-delivery consent process has been in existence for more than 20 years yet only a minority of investors has consented to it. A 2011 report by Dalbar Inc.[2] showed that 65% of fund and annuity firms polled had an average adoption rate of less than 10%. The two most frequent reasons that investors gave for hesitation to embrace this option were a preference for paper and security concerns.
- **American investors use shareholder reports to make decisions.** The SEC's commissioned study on investor response to the summary prospectus rule noted that 21.8 % of respondents[3] saw shareholder reports as a main source of information when deciding to choose an investment

[1] Through multilingual consumer education materials, community outreach and issue-focused advocacy, Consumer Action empowers underrepresented consumers nationwide to assert their rights in the marketplace and financially prosper.
[2] 2011 E-Delivery Benchmarks, Gauging Trends in Electronic Delivery of Financial Communications; Dalbar Inc. June 2011
[3] Investor Research Report, Siegel and Gale, July, 2012. P. 201

- **A majority of American adults across all demographic groups believe using implied consent in the modernization rule is wrong.** 73% of respondents said it is wrong to expect anyone to go online to interact with government agencies; 84% objected to private sector entities initiating a forced shift to electronic format, and 90% of people under 25 share the belief that options for paper-based communications should be preserved.[4] Many American investors view implied consent as coercion. It harms groups that do not have access to electronic communications.
- **Investors are concerned about security of the Internet.** Currently 30% of all investors don't use the Internet for investment correspondence due to concerns about security.[5]
- **Seniors would be disadvantaged by this proposal.** 41% of 65+ Americans do not use the Internet[6]; 34% of this group own mutual funds so they deserve shareholder reports[7]. They may prefer paper because they lack Internet access. Americans 55 and older are 16% less likely than the national average to have access to the Internet[8]. A 2011 Department of Commerce report stated that 45% of 65+ Americans do not own a computer[9]. 15% of all Americans do not use the Internet and an additional 9% do not have access at home[10].
- **Minorities would be disadvantaged by this proposal.** African Americans are 18% less likely to have Internet access than the national average[11]; 43% of African American households do not have Internet access[12]. Hispanic Americans are 16% less likely than the national average to have Internet access[13].

Many Americans either do not have access or choose not to use electronic communications, yet the SEC believes that one Initial Statement postcard will provide guidance to either begin using the Internet or allow them to request perpetual print document delivery. Such a letter or form, especially when unexpected, could easily be lost in the mail or discarded.

Precedents from other federal agencies. Other agencies have disallowed implied consent, or restricted its use in ways the SEC proposes to use it. The IRS does not allow financial organizations to use “implied consent” to enroll investors for e-delivery of tax documents; investors must opt in pro-actively[14]. The Department of Labor and Department of the

---

[4] Access for All: American Attitudes Regarding Paper & Digital Information; InfoTrends 2013
[5] Closing the E-Delivery Gap, 2013 Pershing LLC, subsidiary of New York Mellon Corporation
[6] Pew Research Center, Older Adults and Technology Use
[7] ICI 2015 Investment Company Fact Book, p.116
[8] Access for All: American Attitudes Regarding Paper & Digital Information; InfoTrends 2013
[9] Exploring the Digital Nation: Computer and Internet Use at Home, US Department of Commerce, 2011
[10] Who’s Not Online and Why; Pew research Center, Sept. 2013
[11] Access for All: American Attitudes Regarding Paper & Digital Information; InfoTrends 2013
[12] Report: 20 Percent of American Adults Don’t Have Internet, DailyTech LLC, August, 2013
[13] Ibid
[14] Closing the E-Delivery Gap, 2013 Pershing LLC, subsidiary of New York Mellon Corporation

Treasury have concerns with e-delivery, citing issues such as lack of consistency and clarity in presenting Internet content as well as preserving participant choice to receive paper[15].

As consumer advocates, we question whether this proposal is focused on reducing costs to investment firms rather than improving disclosures to investors. Forcing investors to opt in to continue to receive important fund information is a backwards approach. It has the potential to confuse investors who suddenly stop seeing printed information from the funds they invest in.

In closing, we would not want to see a harmful legal precedent set that carries the day for implied consent in the financial services industry. The least harmful route to eventual adoption of e-delivery is to allow consumers to make the choice in their own time and when (and if) it is appropriate for them.

Sincerely,

Linda Sherry

Linda Sherry
Director of National Priorities

---

[15] Private Pensions; Revised Electronic Disclosure Rules Could Clarify Use and Better Protect Participant Choice, p. 19, United States Government Accountability Office, Sept. 2013