

July 2, 2015

VIA EMAIL

Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Comments on Release Nos. 33-9776; 34-75002; IC-31610; File No. S7-08-15

I appreciate this opportunity to submit comments on the SEC's proposal concerning Investment Company Reporting Modernization (the "Proposal") described in the above-referenced release (the "Proposing Release"). I offer my comments on the Proposal both from my personal perspective as a long-time mutual fund investor, as well as from my professional perspective as an investment management attorney with over 25 years of experience assisting adviser and fund clients in meeting SEC regulatory requirements, including those implicated in the Proposal. Please note, however, that the comments I offer are my own and do not necessarily reflect the views of any of my clients.

In general, I support the effort to improve fund reporting and disclosure. However, I believe the Commission should consider alternatives that go further than the Proposal toward regularizing and simplifying the fund reporting scheme and, toward that end, I offer the following comments:

1. Allow Funds to Make Website Transmissions / Deliveries for More Documents. I support the Proposal to the extent it allows funds to rely on the web as an efficient and equally effective method for transmitting shareholder reports. Under the circumstances proposed, web transmissions reduce fund printing and mailing costs without unduly compromising the availability and accessibility of fund information for all shareholders.

That said, I believe the piecemeal approach the Commission is taking to the entire regulatory scheme governing electronic deliveries is unnecessarily complex and confusing. In many respects, it lags drastically behind the times. For the reasons explained in the Proposing Release with regard to shareholder reports (such as trends in investor preferences and usage of the Internet), I believe the Proposal should go further and should allow funds to use the web to satisfy their delivery obligations for prospectuses, SAIs and other investor documents in addition to shareholder reports, whether the delivery is for purposes of satisfying Rule 30e-1(d) or satisfying other '33 Act or '34 Act delivery obligations. While shareholder reports are certainly different from other fund shareholder documents, I do not believe those differences make a difference to the question of whether web deliveries can or should be permitted to satisfy delivery obligations. In my view, the Internet is now mature enough that web access should effectively equal to "transmission," "conveyance" and "delivery," as those terms are used under the relevant federal securities laws.¹

Electronic deliveries have been successfully utilized by funds for decades now. As noted in the Proposing Release, the web and web usage have matured greatly over that time, and today paper deliveries should be the exception rather than the rule, regulatorily speaking. Indeed, the only thing that should be left to decide are the exact conditions under which electronic deliveries via the web should be allowed (such as investor consent, legends, incorporation by reference, paper requests, etc.) and we have many years of actual

¹ More detail on these concepts is contained on pages 1-5 of my comment letter addressing the Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Investment Companies described in Release Nos. 33-8861; IC-28064; File No. S7-28-072008, accessible here: <http://www.sec.gov/comments/s7-28-07/s72807-67.pdf> (February 2008 Comment Letter).

experience to draw on in making those decisions. Indeed, those aspects of the Proposal are a good start in that regard.

However, a key priority for the Commission in formulating policy and adopting rules in this area should be to adopt consistent regulations applicable across-the-board to all fund documents, so funds will not have to grapple with an inexplicable patchwork of certain rules applicable to only particular documents and staff guidance developed in the '90s applicable to other documents. The existing patchwork already creates confusion and inefficiencies for funds trying to satisfy their SEC obligations, as well as trying to comply with E-SIGN requirements,² state requirements and other applicable considerations (such as privacy and cybersecurity) at the same time. Unfortunately, the Proposal would not make that patchwork any better and, in fact, may make it worse. For example, it would introduce confusion about whether, in light of new Rule 30e-3, funds would still be permitted to rely on the old staff guidance for transmitting shareholder reports to any shareholders, such as existing shareholders who previously consented to electronic delivery and have been receiving electronic shareholder reports for years.

In my view, it would be better if the Proposal were reworked to offer funds web delivery/transmission options for all their investor documents. However, recognizing that this would be a large and perhaps controversial undertaking causing substantial delay, I support adoption of proposed Rule 30e-3 to permit web transmission for shareholder reports, at least as an interim measure until consistent, across-the-board electronic delivery rules can be adopted.

In any event, if Rule 30e-3 is adopted, the staff should clarify in the Adopting Release to what extent funds can continue to rely on the old staff electronic delivery guidance for transmitting shareholder report to any shareholders. In my view, this should be permitted liberally, so as to avoid the confusion, cost and disruption that would result if existing shareholders were required to essentially consent to electronic delivery AGAIN under the new rule when they have already been receiving shareholder reports electronically for years.

2. Ease Formatting Burdens. While I generally support efforts to make fund reports more useful, the Proposal would require even more fund documents to be filed in a structured data format. This raises two concerns: cost and complexity.

On the point of cost, I would emphasize that the Proposal does not avoid the cost of preparing data in a structured format. Rather, it merely shifts the cost to the fund, and relieves the Commission, academics, institutional investors, commercial data providers and others who have an interest in using or selling structured data from having to mine the relevant data from the fund's various filings and tag the data themselves. I am not convinced this is a cost better or more efficiently borne by the fund rather than the data users and sellers, particularly for smaller funds already struggling to meet costly filing requirements.

On the point of complexity, I would note that it is impossible to explain – except by historical accident – why fund documents must be, or are permitted to be, filed in such a wide variety of formats, such as ASCII/TXT, HTML,³ PDF, XBRL and XML. If funds are going to be required or allowed to use specific formats for filing their documents, the Commission should do everything possible to standardize the format requirements in order to ease the burden on funds having to comply with the current crazy-quilt of rules. Accordingly, I would urge the Commission to harmonize the various format requirements wherever feasible, especially those calling for structured formatting in XBRL or XML.

² More information regarding issues with E-SIGN can be found on page 34 of my February 2008 Comment Letter, referenced above in footnote 1.

³ Throughout this letter, I refer to the more commonly known HTML format, although I gather that the current EDGAR rules call for HTMA or ASCII/SGML formatting.

As to forms specifically required to be filed in a structured format, I would urge the Commission to explore the feasibility of having funds input their data through a pre-formatted web portal or web form so that the filer would merely have to enter its data into the proper field, and the appropriate tagging would be added automatically. This would ease the burden of funds having to create separate filings and then engage document experts to convert those filings into specialized formats, with the attendant delay, cost and risk of error.⁴

Better yet, the Commission should accelerate the development of “inline” structured data, which would allow tagged data to be embedded in the various other fund filings⁵ already containing the relevant information, such as the fund’s registration statement or shareholder reports, rather than having to be aggregated in an entirely separate fund filing. This would avoid filers having to report the exact same information twice – once in HTML and once again in a separate form in XML. For funds, this would likely eliminate the need for both Form N-CEN and Form N-PORT entirely since the vast majority – if not all – of that data appears in other fund filings. If the prospects for inline tagging are realistic within the next few years, I would urge the Commission to delay the pending proposed changes to Forms N-CEN and N-PORT in favor of waiting until inline tagging is available. Otherwise funds will have to incur the cost and disruption attendant with switching to N-CEN and N-PORT now, just to have to scrap them and undertake a whole new system of inline tagging a few years down the road.

Either of these alternatives for structuring data – a pre-formatted portal or inline tagging – would be faster, simpler and cheaper for funds than the current system, without losing the usefulness desired by regulators and other users. As such, they should be pursued with vigor by the Commission.

3. Consider a Simpler and More Logical Reporting Scheme. While I support the idea of rescinding Forms N-Q and N-SAR, I do not believe that replacing them with Forms N-PORT and N-CEN makes the fund reporting scheme any better and certainly not as simple and logical as it should be. Accordingly, I urge the Commission to consider all feasible alternatives to further reduce the number of reports required to be filed by funds and standardize their format. The following alternative is offered as one possible approach, until the time that inline tagging is permitted:

PRIMARY INVESTMENT COMPANY FORMS FOR REPORTING:

Current Requirements	SEC Proposal	Alternative Suggested
N-SAR semi-annual (ASCII)	N-CEN annual (XML)	
N-Q after 1 st and 3 rd quarters (HTML, schedule of portfolio holdings prepared in accordance with Reg. S-X)	N-PORT monthly (XML, with exhibit attached to reports for end of 1 st and 3 rd quarters containing a schedule of portfolio holdings prepared in accordance with Reg. S-X)	
N-CSR semi-annual (HTML)	N-CSR semi-annual (HTML)	N-CSR semi-annual (HTML, with portfolio holdings schedules prepared in accordance with Reg. S-X)
		N-FDR quarterly (XML)

⁴ Filers wanting to use custom tags not supported by the pre-formatted portal or form could be permitted to continue submitting their filings fully formatted with their own tags. Of course, over time, custom tagging should be minimized or eliminated for the sake of standardization and usability of data.

⁵ See the remarks of Mark J. Flannery, SEC Chief Economist and Director of the Division of Economic and Risk Analysis, about Inline-XBRL appearing in “The Commission’s Production and Use of Structured Data” (Sept. 30, 2014) at <http://www.sec.gov/News/Speech/Detail/Speech/1370543071869>.

The alternative suggested has advantages over the current and proposed schemes by:

- Reducing the number of forms that funds have to file each year but preserving the substance of what is being reported now.
- Regularizing the forms and formats required from funds so that the form aimed primarily at shareholders and investors is in reader-friendly HTML format, while the form aimed primarily at regulators and others with an interest in structured data is in XML.

The overarching idea would be to consolidate all shareholder reporting in HTML formatting under Form N-CSR, with N-CSR-S being the semi-annual report version and N-CSR-A being the annual report version, as is the case now. Then all census, technical and more regulatory-oriented reporting would be consolidated on a different form, which I have called Form N-FDR (fund data reporting), in XML format.

In my view, quarterly portfolio holdings reports should not be necessary other than in XML, which should be sufficient for both investor and regulatory purposes. Moreover, I do not believe monthly portfolio holdings reports should be required at all. Monthly reporting would impose a huge burden on funds, especially smaller funds, and would raise the potential for “front-running” and the other trading problems referenced in the Proposing Release. It would be risky, at best, to have only certain forms, or certain data on certain forms, made public in order to avoid these potential problems. Accordingly, I do not support the Proposal to the extent it would require monthly portfolio holdings reporting on any form, nor do I support the Proposal to the extent it would require both XML portfolio holdings reports and Reg. S-X formatted portfolio holdings reports appended to the N-PORT filings for the first and third quarters.

The following table summarizes the shareholder-oriented fund reports I support:

HTML FUND SHAREHOLDER REPORTS

1 st Quarter*	2 nd Quarter	3 rd Quarter*	4 th Quarter
Form N-CSR-1Q	Form N-CSR-S	Form N-CSR-3Q	Form N-CSR-A
Portfolio holdings info only	Essentially the same information as current N-CSR-S (semi-annual report)	Portfolio holdings info only	Essentially the same information as current N-CSR-A (annual report)
Schedule of portfolio holdings only (S-X format) (unaudited)	Full financials (unaudited)	Schedule of portfolio holdings only (S-X format) (unaudited)	Full financials (audited)
SOX certification (covering 3 months)	SOX certification (covering 6 months, or 3 months if Form N-CSR-1Q covers first quarter)	SOX certification (covering 3 months)	SOX certification (covering 6 months, or 3 months if Form N-CSR-3Q covers third quarter)

* Under my preferred alternative, Forms N-CSR-1Q and N-CSR-3Q would not be required at all. Quarterly portfolio holdings would be reported only in XML on Form N-FDR, as discussed below. However, if the Commission determines that S-X formatted portfolio holdings reports should be filed quarterly, this is the approach I would support.

With this approach, investors would know to look for regular reports aimed at them on Form N-CSR, even though different information would be included for the various semi-annual or quarterly reporting periods.

Then, until inline tagging is permitted, I would consolidate all the more technical fund reporting on a new form, which for the sake of identification I have called Form N-FDR (fund data reporting), containing all the fund’s census-type and other regulatory-oriented data in a structured data format (XML). This would essentially combine the N-PORT and N-CEN proposed data into one form. Reported information would vary from quarter to quarter depending on the type of fund, as well as the nature of the information.

The following table summarizes the regulatory-oriented fund reports I support:

XML FUND DATA REPORTS

1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Form N-FDR-1Q	Form N-FDR-2Q	Form N-FDR-3Q	Form N-FDR-4Q
Essentially same info as proposed in N-PORT for 1Q	Essentially same info as proposed in N-PORT for 2Q	Essentially same info as proposed in N-PORT for 3Q	Essentially same info as proposed in N-PORT for 4Q
Update only of “census” data identified as requiring quarterly update*	Update only of “census” data identified as requiring quarterly update*	Update only of “census” data identified as requiring quarterly update*	Full “census” data included (essentially same info as proposed in N-CEN)

* Examples of “census” data that might require quarterly updating include changes in the fund’s name, the filing of any material litigation (which, if reported on Form N-FDR, should be deemed to satisfy any Section 33 requirements for filing pleadings in derivative suits) or any changes in the fund’s independent public accountant (if an Item 4 of Form 8-K type of situation).

While my suggested approach might be viewed as simply another way to “slice-and-dice” the existing fund reporting scheme, I believe it is a simpler, more logical way to approach fund reporting. Under the suggested approach, funds have fewer forms to deal with in reporting pertinent information and more intuitive form names. Formatting requirements are made consistent and logically match the type of information reported and the intended users. This offers advantages for fund filers in terms of cost savings and reduced risk of error, and would make it easier for investors and others to find and use information on EDGAR.

4. Eliminate Duplicative / Extraneous Information Aimed at “Outsourced” CCOs. I urge the Commission to eliminate Item 10.j. from the final version of Form N-CEN (or any similar “census” type form the Commission may decide to adopt), for all the reasons discussed under Point 1 of the Specific Comments contained in my comment letter, also dated and submitted today, on the Commission’s proposal concerning Amendments to Form ADV and Investment Advisers Act Rules (Proposing Release No. IA-4091; File No. S7-09-15). To avoid unnecessary repetition, please refer to pages 2 and 3 of that letter for my supporting rationale.
5. Ease the Burden of Duplicative Information Easily Obtainable from Other SEC Reports. As noted above, virtually all of the information called for by proposed Form N-CEN is readily obtainable from the fund’s registration statement or other fund filings, and I again urge the Commission to find an approach to getting that information into a structured format other than through a separate fund filing such as Form N-CEN (for example, through inline tagging). Until that is feasible, however, I would urge the Commission to at least consider the following points in order to avoid unnecessary duplication or overt confusion in the proposed forms:
 - In light of the Instruction appearing above Item 2 of proposed Form N-CEN, clarify how Form N-CEN Item 2 Background Information differs from Item 25 Background Information for Management Investment Companies. (That is, when and how would a management investment company organized in series respond to Item 2 versus Item 25?)

- Expressly state in the final form of Instructions to Form N-CEN that derivative suits reported in response to Item 12 Legal Proceedings (and related attachments) are deemed to satisfy the requirements under Section 33 of the Investment Company Act for filing pleadings and other documents in connection with that type of suit.⁶
- Eliminate Form N-CEN, Item 13a Fidelity Bond and Insurance. This information is already called for under Rule 17g-1(g)(2) under the Investment Company Act, along with other similar information reported on EDGAR Form 17G.
- Proposed Form N-CEN Item 28 Diversification seems fine if all you want to do is identify the universe of funds that, looking forward, intend to operate as non-diversified. However, that misses the opportunity to identify funds that intended to operate as non-diversified at some point during the reporting period and have since changed to diversified status. These funds too might warrant whatever additional look or analysis the staff believes is merited for non-diversified funds, albeit for a part-year period. In any event, single-point forward-looking diversification reporting would not necessarily sync up with any of the quarterly portfolio holdings information previously filed by the fund, from which it might be determined if the fund's actual portfolio holdings were inconsistent with the diversification status it sought to achieve.
- On Form N-CEN Item 31 Reliance on Certain Rules, specify the name of the rule next to the rule number, so form users have some idea of what the cited rule involves. For example: Rule 10f-3 Exemption for the acquisition of securities during the existence of an underwriting or selling syndicate (17 CFR 270.10f-3).
- If not already accommodated in some other way, add to Form N-CEN a part similar to proposed Part E Explanatory Notes (if any) of Form N-PORT, which would allow filers to provide explanatory information for any of their N-CEN responses.
- Eliminate Form N-PORT, Part F (Exhibit containing S-X formatted portfolio holdings), for the reasons outlined in Point 3 on pages 3 and 4 above.

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If you have any questions about my comments, or would like any further clarification about these or related points, please contact me at the phone number referenced below.

Sincerely,

L. A. Schnase
Individual Investor and Attorney at Law

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⁶ While it might have made sense at the time Section 33 was enacted to require all pleadings, verdicts, judgments, and all proposed settlements, compromises or discontinuances in derivative suits to be filed with the Commission within 5 or 10 days, this poses an excessive (and easily overlooked) burden on funds in today's system of litigation, which should be unnecessary if the suit is reported via Form N-CEN.