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FILED ELECTRONICALLY

November 5, 2010

Elizabeth M. Murphy
Secretary
U.S. Securities & Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: File Number S7-15-10, Proposed Rule: Mutual Fund Distribution Fees; Confirmations

Dear Secretary Murphy,

Fiduciary360 (fi360)¹ appreciates the opportunity to comment on the Commission's proposal to reform mutual fund distribution fees under proposed new rule 12b-2 and related rule amendments.

As a general matter, fi360 has long promoted the reexamination and reform of 12b-1 fees, and we believe that the Commission's current proposal is particularly timely in light of its consideration of whether to extend the fiduciary standard to brokers who provide personalized investment advice. In particular, the increased focus on fiduciary issues coupled with other regulatory initiatives that seek to promote transparency and accountability in the marketplace presents a fitting time to eliminate fees that create conflicts of interest, confuse investors and unnecessarily complicate the comparison of costs across competing funds, and replace them with fees that are more clearly identified to particular services and more plainly disclosed to investors.

Under the prevailing 12b-1 fee structure, conflicts of interest arise for fund intermediaries because of the primary use of 12b-1 fees to pay continuing compensation to those who distribute fund shares. The amount of the compensation, or trail commission, may vary among funds, which creates an inherent conflict of interest for an intermediary operating in a fiduciary capacity, and an even greater conflict for those acting as a broker representative with no duty to

¹ Fi360 offers a full circle approach to investment fiduciary education, practice management, and support. Our mission is to promote a culture of fiduciary responsibility and improve the decision making processes of investment fiduciaries, including investment advisors, managers, and stewards. With legally substantiated Practices as our foundation, we offer training, tools, and resources in support of that mission. We manage the Accredited Investment Fiduciary® (AIF®) and Accredited Investment Fiduciary Analyst™ (AIFA®) designation programs. AIF designees receive training that provides a unique comprehensive overview of fiduciary standards of excellence, asset allocation, preparation of investment policy statements, manager search and due diligence, performance measurement, and other related subjects. AIFA designee training builds on that foundation and prepares students to provide Fiduciary Assessments to institutions. At present, there are over 4,200 active AIF and AIFA designees.

disclose or avoid conflicts, because both types of intermediaries may have incentive to compromise the investors' best interests in favor of their own financial gain.

In addition to these conflicts of interest, investors have long been confused about 12b-1 fees because they do not understand what these fees are, who receives the money, or how these indirect fees compare to direct fees or sales loads. As a result of this confusion, funds that pay for distribution through 12b-1 fees tend to sell better than those that involve direct fees, even though indirect fees may be more damaging to investor returns over the long term.

We believe that changing the structure and disclosure of mutual fund distribution fees under the Commission's proposal will help to expose conflicts of interest and alleviate investor confusion by creating greater transparency of fees. Under the current fee structure, investors currently pay approximately \$13 billion annually in 12b-1 fees. Is that fair and reasonable? We simply do not know because there is too much variability across funds with respect to how the fees are being collected and applied. Not knowing is a problem for an investment professional, and especially one acting in a fiduciary capacity, who is obligated to evaluate expenses sufficiently to determine if they are fair and reasonable for the services provided.

In light of these general concerns and issues related to mutual fund distribution fees, we applaud the Commission's proposal to differentiate and require better disclosure of these fees. In particular, we believe breaking the charges into an operating expense and asset-based sales charge and using the more descriptive terms of "marketing and service fee" and "ongoing sales charge" will provide greater transparency for investors and allow for better, more consistent comparisons of fees charged by funds. We would note, however, that a better description for the operating expense may be "sales/service fee" to account for the fact that this fee can go toward sales-related charges, such as trailing commissions.

In addition, the Commission's proposed limits on the marketing and service fees and ongoing sales charge will further promote consistency and ensure that fees are fair and reasonable. We note, in particular, that the limit on the ongoing sales charge reduces conflicts of interest by shifting the focus to an account-level cap. We also believe that fair and reasonable fees will be promoted under the Commission's proposal to permit an alternative, elective distribution model. Under such a model, fund intermediaries would negotiate and charge a fee commensurate to service and skill rather than be captive to amounts that the fund company chooses to distribute, potentially providing funds and investors greater choices and options.

And finally, we believe that the requirements to clearly label and disclose fees in precise dollar and percentage amounts in transaction confirmations in addition to the disclosures made in a fund prospectus will greatly improve transparency and accountability. Overall, the re-categorization of 12b-1 fees coupled with requirements for all funds to report expenses in a clear and consistent manner would make expense analysis much more efficient and effective. Moreover, with full transparency of well-defined expense categories, we believe that the competitive pressure applied through due diligence could reduce fund expenses over time. Compensation for legitimate expenses will of course continue, but the proposed changes would help to ensure that the expenses funds incur are in fact fair and reasonable.

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We truly appreciate the opportunity to provide our views on these important issues. Please do not hesitate to contact us if you have any questions or would like additional information.

Sincerely,

A handwritten signature in blue ink that reads "Blaine F. Aikin". The signature is fluid and cursive.

Blaine F. Aikin

CEO

A handwritten signature in black ink that reads "Kristina A. Fausti". The signature is cursive and elegant.

Kristina A. Fausti

Director of Legal and Regulatory Affairs