BNY MELLON

November 5, 2010

Ms. Elizabeth Murphy
Secretary
U.S. Securities and Exchange Commission
100 F. Street, N.E.
Washington, D.C. 20549-1090

RE: Mutual Fund Distribution Fees and Confirmations
File No. S7-15-10; Release No. IC-29367 (the "Release")

Dear Ms. Murphy:

I appreciate the opportunity to comment on the above-referenced rulemaking proposal by the Securities and Exchange Commission ("SEC"). For four years, I have served as Chief Legal Officer of several mutual fund underwriters. Currently, the broker-dealers I am associated with serve as underwriter for approximately 19 unaffiliated fund complexes, including two umbrella funds that include funds advised by approximately 20 unaffiliated investment advisers. I will note that the below views are my opinions alone and the opinions expressed do not necessarily represent those of my fund clients or their investment advisers.

As a former staff member of the SEC, I absolutely appreciate the responsibility that the SEC has in protecting investors and commend the staff of the SEC for obviously doing a very thorough review of the issue. Generally, I agree that some additional rulemaking may be necessary to accomplish the SEC's investor protection goals in connection with how funds pay for distribution related activities. However, I do not agree that the proposal, including proposed Rule 12b-2, will have the desired effect. In fact, I fear that it could have the complete opposite effect that SEC hopes to achieve. Therefore, I implore the SEC to conduct additional analysis and thoroughly consider each of the comment letters submitted to ensure that the staff fully understands what the potential impact of the rulemaking will be and what I believe could be some very significant unintended consequences of the rulemaking proposal.

Like many commentators, I believe that the SEC should not consider this issue in a vacuum. I believe that to address the concerns relating to 12b-1 fees, the SEC must consider all of the other fee arrangements that are involved in relationships between financial intermediaries and mutual funds (or the fund's advisor or underwriter). As the rulemaking proposal noted, the SEC is considering whether it also wants to take any action in connection with revenue sharing agreements. I have been involved in negotiating literally thousands of agreements with financial

intermediaries to facilitate the distribution of my fund clients' shares, and can personally attest to the fact that the payment of 12b-1 fees is often only one of many interlocking components that comprise the overall fee arrangement. Revenue sharing agreements are often an integral component of these fee arrangements as well, and I think that investors, as well as the industry, would be best served if the SEC chose to proceed with rulemaking regarding 12b-1 fees only once it has determined how it plans to proceed on the issue of revenue sharing agreements. Similarly, I agree with other commentators who suggest that rulemaking relating to 12b-1 fees should be postponed until the SEC has fully addressed the issue of Section 913 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which relates to a proposed fiduciary duty for broker-dealers. I believe, as many do, that imposing a fiduciary duty on broker-dealers may very well resolve many of the concerns that the SEC has relating to disclosure around the use of fund assets to pay for distribution and the various share classes that funds make available to investors. It certainly would provide the SEC with more ability to ensure that broker-dealers are making adequate disclosures and making suitable recommendations to mutual fund investors, which should be the SEC's primary concern.

Further, I appreciate the SEC genuinely believes that the rulemaking proposal "would largely preserve existing distribution arrangements" and would "minimize disruption and costs to funds, fund shareholders, and those who participate in the distribution of fund shares." However, I do not agree that from a practical standpoint it is possible to avoid massive disruption in light of the complexity of existing distribution arrangements and the operational costs that many funds will be required to bear to comply with the rulemaking proposal. I respectfully request that the SEC do further cost-benefit analysis to ensure that the staff has fully considered the financial ramifications of the rulemaking proposal and the likely impact on funds and fund shareholders. I can foresee personally having to be involved in the re-negotiation of possibly thousands of agreements as a result of this rulemaking proposal. Further, I fear that instead of reducing costs paid by fund shareholders, the rulemaking proposals ultimately may increase fund costs and costs incurred by intermediaries, and thus result in the opposite effect that the SEC is hoping to achieve (i.e., investor protection).

In addition, I also concur with many of the commentators who question the wisdom of an approach that essentially seems geared towards creating a one-size-fits-all approach to mutual fund investing. As a staff member of the SEC, I was involved in numerous discussions relating to mutual fund suitability, as suitability was one of my areas of expertise. During my tenure at the SEC, the SEC seemed extremely reluctant (and rightfully so) to dictate to funds which share classes they could offer or to otherwise tell funds what fund structures they had to adopt or could not adopt. Similarly, the SEC was not inclined to tell investors what products were the "best" products or to tell investors that an investment was a "bad" investment. The SEC simply did not presume to tell investors what products were inherently good or bad. Instead, the SEC's focus (as was appropriate) was making sure adequate disclosures were made to shareholders so that shareholders could make informed investment decisions. This rulemaking proposal seems to deviate significantly from the SEC's previous approach, because it seems specifically designed to force funds to offer only certain types of share classes, which will likely result in fewer choices to investors. Even more specifically, it seems designed to eliminate C shares from the

marketplace. I believe that it benefits both the shareholders and the funds for funds to be able to offer multiple share classes, and while the SEC's release states that the rulemaking would "preserve the ability of funds to provide investors with alternatives for paying sales charges," the reality is that compliance with the rulemaking will be sufficiently difficult that the likely result will be that funds will be forced to take the path of least resistance and simply offer fewer shares classes. I believe this rulemaking proposal sends the message to the industry and to shareholders that certain share classes (primarily C shares) are inherently bad and that should not be the role of the SEC. This approach seems to deviate from a focus on ensuring adequate disclosure and ultimately takes the choice away from the investor.

Finally, as stated above, I do appreciate the difficult task that the SEC has in protecting investors and applaud the staff on their efforts to attack this very difficult issue. However, I respectfully suggest that the bulk of the rulemaking proposal is unnecessary to ensure that the SEC meets its goal of protecting investors. I believe the SEC already has at its disposal the tools necessary to achieve its investor protection goals in connection with mutual fund investments. Ensuring adequate disclosure at the point of sale and holding brokers accountable for making unsuitable recommendations is all that is really necessary to ensure that investors fully understand the terms and conditions of their mutual fund investment. These are tools the SEC already has available to it, and if used appropriately, the SEC could rectify any problems surrounding 12b-1 fee disclosures and unsuitable share class recommendations without resorting to expansive rulemaking such as this. Further, if a fiduciary duty is adopted for broker-dealers, this will further enhance those tools and the SEC's ability to ensure shareholders fully understand their investments and that investors are placed in an appropriate share class. Scrapping Rule 12b-1 and implementing these additional rulemaking proposals will, in my opinion, do little to increase investor protections in this area, and, as stated above, could result in harming investors instead.

Again, I thank the SEC for the opportunity to express my views on this important (and controversial) issue. If you have any questions or require additional information from me, please do not hesitate to contact me at (302) 791-3281. I would welcome and appreciate the opportunity to discuss with the staff these comments, and what alternative steps the SEC could take to address its concerns around 12b-1 fees.

Sincerely,

Jodi Jamison

Jodi Jamison
Chief Legal Officer
BNY Mellon Distributors Inc. and subsidiaries