

ROBERT F. BENNETT
UTAH

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BANKING, HOUSING, AND
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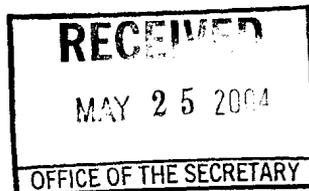
United States Senate

WASHINGTON, DC 20510-4403
(202) 224-5444

May 19, 2004

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The Honorable William H. Donaldson
Chairman
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549



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STATE OFFICES:

- WALLACE BENNETT FEDERAL BUILDING
125 SOUTH STATE, SUITE 4225
SALT LAKE CITY, UT 84138-1188
(801) 524-5933
- FEDERAL BUILDING
324 25TH STREET, SUITE 1410
OGDEN, UT 84401-2310
(801) 625-5676
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51 SOUTH UNIVERSITY AVENUE, SUITE 310
PROVO, UT 84601-4424
(801) 379-2525
- FEDERAL BUILDING
196 EAST TABERNACLE, SUITE 42
ST. GEORGE, UT 84770-3474
(435) 628-5514
- 2390 WEST HIGHWAY 56
SUITE 4B
CEDAR CITY, UT 84720-2686
(435) 865-1335

Re: File No. S7-03-04, Investment Company Governance, Release No. IC-26323

Dear Chairman Donaldson:

As a member of the United States Senate Committee on Banking, Housing, and Urban Affairs, I write to offer my views on the Securities and Exchange Commission's proposed rule related to Investment Company Governance. I applaud the Commission for its overall efforts to enhance investor protection; however, I am concerned that the Commission's independent chairman proposal, if made final in its current form, would be an unnecessary regulatory mandate that is not in the best interest of all mutual fund shareholders. I urge the Commission to consider adopting an alternative proposal that would allow the option of choosing an independent chairman or selecting a lead independent director.

The Commission's proposed rule assumes that shareholder protections would be improved by mandating an independent chairman; however, I do not believe any evidence was ever presented to our Committee during its ten hearings on the mutual fund industry that supports this assumption. There appears to be no correlation between instances where regulators have identified inappropriate activity and whether the fund at issue had an independent or interested chairman.

Under the Commission's proposal fund boards could be prevented from selecting the most highly qualified candidate for chairman. Independent directors should be empowered to weigh all the relevant factors, choose the best candidate, and then have authority to exercise adequate oversight of that person and his or her dealings with the fund advisor. The discretion of the independent directors should not be limited by regulatory mandate.

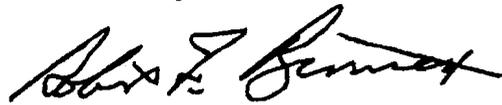
Existing boards already consist of two-thirds independent directors and that percentage may be boosted to three-quarters by SEC rule. Given this supermajority, independent directors clearly control the board and have sufficient authority to make their

own informed and responsible choice as to who should serve as the chairman. With a lead independent director in place who has authority to set the agenda, the board's independent directors will be fully empowered to exercise proper oversight.

In summary, I do not believe the SEC should mandate independent chairman for all mutual fund boards. The selection of an appropriate person to serve as chairman should continue to be a decision made by the directors themselves. At the very least, the Commission should not finalize a rule mandating an independent chairman before it presents substantial empirical evidence to our Committee and in a public rulemaking that supports such a mandate.

If you have any questions on this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F. Bennett". The signature is fluid and cursive, with a large initial "R" and "B".

Robert Bennett
United States Senator