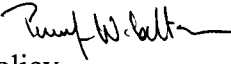


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MEMORANDUM

TO: Public Comment File No. S7-27-03

FROM: Penelope W. Saltzman 
Office of Regulatory Policy
Division of Investment Management

DATE: March 4, 2004

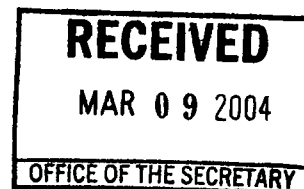
On February 26, 2004, representatives of Fidelity Investments, ASPA, The Principal Financial Group, Hewitt Associates, and Manulife met with staff members of the U.S. Securities and Exchange Commission to discuss issues relating to the Commission's proposed rule amendments concerning the pricing of investment company shares in Investment Company Release No. 26288 (Dec. 11, 2003) ("Late Trading Proposal"). The following Commission staff members attended the meeting: Robert Plaze, Associate Director; Penelope Saltzman, Senior Counsel; and Adam Glazer, Attorney, Division of Investment Management.

The representatives discussed the points and arguments made in the comment letters the companies submitted in response to the Commission's Late Trading Proposal. The agenda of their discussion is attached. The representatives emphasized the significant amount of retirement savings invested in mutual funds, and the adverse impact that a "hard 4" close would impose on retirement plan participants.

The representatives discussed two alternatives to the proposed hard 4 that they believe could prevent late trading with fewer adverse consequences. The first alternative would limit same-day pricing to orders received by a clearinghouse (*i.e.*, NSCC) by 4 p.m. The second alternative would allow same-day pricing for orders received by an intermediary by 4 p.m., if the intermediary meets specific requirements, including tamperproof time stamping, a secure trading system, a validation mechanism, and annual certification and independent audit, and is subject to Commission regulation.

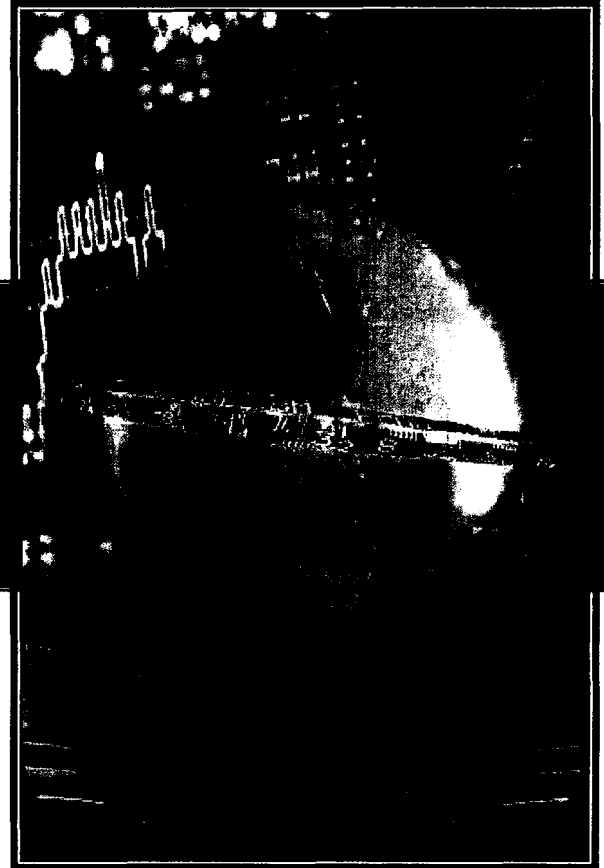
The representatives noted that a small percentage of retirement plan transactions cause the greatest problems in devising alternatives to the hard 4. The representatives commented that these plan transactions should be exempted from the proposed hard 4 or the alternatives discussed, if the intent of the plan transaction is submitted prior to 4 p.m., and the transaction intent is submitted on a participant basis. They also noted that under any of the proposals, account rebalancing could be done using the previous day's net asset value.

Attachment



Discussion – SEC 4:00 Hard Close
– Complexity In Defined
Contribution Industry

February 26, 2004



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Agenda



- Introductions & Review of Agenda.....Doug Fisher, Fidelity Investments, Government Affairs, Senior Vice President
- 4:00 PM Hard-Close – Industry ImpactBrian Graff, ASPA, Executive Director
- 401k Nuances.....Chris Hock, Fidelity Investments, Financial Operations, Senior Vice President
- Alternatives.....Susie Thomann, The Principal Financial Group, Vice President & CIO
Steve Knoch, Manulife, Executive Vice President
Jim McGhee, Hewitt Associates, Technology Leader for Benefits Outsourcing
- Summary.....Brian Graff, ASPA, Executive Director
Doug Fisher, Fidelity Investments, Government Affairs, Senior Vice President
- Questions & Answers.....ALL

4:00 PM Hard-Close – Industry Impact



- The critical role played by retirement plans in promoting savings by working Americans
- The potential impact of the hard close on retirement participant investment rights
- The potential impact of the hard close on the retirement plan industry and the importance of a level playing field
- The need for special rules for retirement plans to meet their special and unique need

401k Nuances

- When performing most transactions the entire account balance is factored into the calculation
- Transactions are “rules based” across several dimensions:
 - Legal – loan maximums, hardship withdrawal criteria, etc.
 - Tax – early redemption penalties, deferral maximums, failure to comply with minimum required distribution requirements, etc.
 - Plan – vesting, demographic requirements, number of transactions, etc.
- The manner in which transactions are liquidated is critical
 - Transaction progressions must take place as dictated by the plan or transaction type.
 - Liquidation hierarchies will drive the amount of the investment liquidated and the taxability of the distribution.
- Funds offered in 401k plans are comprised of registered and non-registered investment options

SEC Objectives

- Eliminate and/or prevent late trading
- Minimize negative impact to investors
- Maintain a level playing field and encourage competition among funds, intermediaries and TPAs
- Implement changes within a reasonable time frame and cost
- Create verifiable effectiveness as demonstrated by processes that comply with internal/external audits and regulations

Common Elements of Alternatives

- Comply with the “Hard Close” for contribution transactions (including new business transfers)
 - Covers the majority of the volume and dollars
 - Minimal participant impact to comply
- Eliminate current “Rebalance” paradigm and treat as a transfer transaction thus eliminating huge complexity
 - Impacts existing contracts but necessary
 - Minimal “real” participant impact
- Exception status for loans and withdrawals
 - Extensive controls and regulations exist
 - Extremely limited opportunity for abuse
 - Would eliminate a major participant “pain point”
- Fund transfers represent the largest complexity since they involve a buy and a sell within the same transaction

Clearinghouse Alternative

- All intermediaries will submit trades to the NSCC by 4:00 pm Eastern time
- NSCC will time stamp the trades as they are received
- Post 4:00 pm, when NAV's have been established; intermediaries will calculate the value of the "buy" side of exchanges sent prior to 4:00 pm eastern
- Intermediaries will submit these trades (the buy sides) to the NSCC
- NSCC will process orders using their internal systems

Secured Time Stamp Alternative

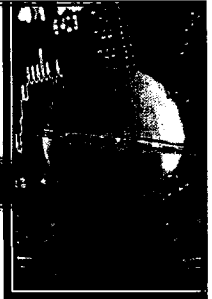


- Extension of clearinghouse notion but using “tamperproof” time-stamping technology at the intermediary level
 - Solutions in use today (e.g. USPS)
 - Solution is secure in a distributed environment
 - Validation mechanism is required
 - Minimizes participant impact and solution cost
- Intermediaries subject to SEC regulation
- Annual certification and audit (3rd party)

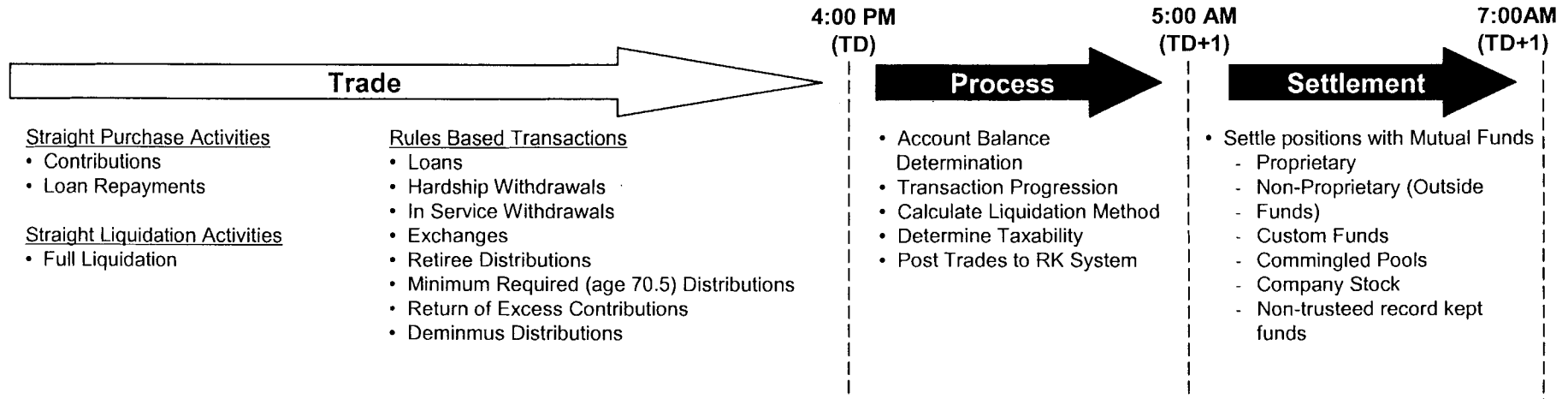


Appendix

4:00 "Hard Close" Complexity



Today



4:00 "Hard Close" at the Fund

