S7-27-03

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March 16,2004
File No. S7-27-03

Jonathan G. Katz, Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609

Dear Mr. Katz:

As a 401(k) sponsor with a substantial proportion of plan assets invested in mutual funds, I am deeply concerned that the SEC's so-called "hard four" proposal unnecessarily and systematically discriminates against 401(k) investors. I strongly encourage the SEC to adopt an alternative that can effectively address late trading abuses without these unintended discriminatory effects.

Before a 401(k) participant's trade request is delivered to a mutual fund, significant record keeping and compliance duties are necessary. , The hard four rule would require investment decisions to be made by plan participants as early as noon. This premature cut-off could have substantial adverse effects on participants relative to those mutual fund investors who hold their investments directly through accounts at the mutual fund. By way of a stark but not at all unusual example, think back to the collapse of Enron. A 401(k) participant invested in a mutual fund with significant exposure to Enron stock learns at 1 p.m. of negative news stories that will clearly and adversely affect Enron's stock value. The 401(k) participant is foreclosed from trading out of the mutual fund shares on that day and will receive tomorrow's price on any order placed following that news.

Meanwhile, the investor who holds the same mutual fund shares but does so through an account with the mutual fund can trade immediately upon learning of the news and will receive that day's price. Plainly, news stories and events can move stock values over the course of a single trading day. By substantially compressing the hours of the 401(k) participants trading day, the hard four close creates a lesser, second-class of mutual fund investors. Put differently, the fact that 401(k) participants are long-term investors does not somehow neutralize or ameliorate the adverse consequences of constraining their ability to trade.

For plan participant requests that involve exchanges between funds, the impact of the hard four close is even more detrimental and discriminatory. Without fund price information, such requests will have to be executed over a 2-day period, i.e. by sale of shares on Day 1 and a corresponding purchase on Day 2. The resulting delay in processing caused by the SEC's proposal will unquestionably result in lost earnings for participants as plan assets are held uninvested.

We recommend that the SEC consider a viable alternative that can stem illegal trading without systematically discriminating 401(k) plan participants. Verifiable time and date stamp technology, coupled with an independent audit process and SEC inspections of intermediaries, can be used in a manner that does not unfairly constrain the investment options of 401(k) participants. In a time when millions of Americans' retirement savings are dependent upon the benefits of employer-sponsored 401(k) plans, it would not be in the best interest of investors to require a "hard four" close. Ironically, such a regulation would produce the results that directly undermine its stated purpose—the creation of a fair and level playing field among investors. Instead, the "hard four" proposal promises to introduce new and substantial inequalities by favoring those who invest directly in mutual funds.

Thank you for your consideration.

Sincerely,

Linda Kallmeyer

Linda Kallmeyer

Sec./Treas.