

NAPFA Comments on 401k Account Disclosures



July 24, 2007

Office of Regulations and Interpretations,
Employee Benefits Security Administration
Room N-5669
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210,
ATTENTION: Fee Disclosure RFI

Re: Fee and Expense Disclosures to Participants in Individual Account Plans (RIN 1210-AD07)

Dear Ladies and Gentlemen:

On behalf of the National Association of Personal Financial Advisors (NAPFA) Board of Directors, we thank the U.S. Department of Labor for the opportunity to submit these comments. NAPFA is the nation's leading organization of Fee-Only comprehensive financial planning professionals. All NAPFA members adhere to a fiduciary oath to exercise their best efforts to act in good faith and in the best interests of their clients. NAPFA-Registered Financial Advisors adhere to three basic principles – comprehensive planning, professional competency, and Fee-Only compensation.

In order to provide plan fiduciaries information to make effective decisions for the benefit of plan participants NAPFA recommends that:

- 1. The term “fiduciary adviser,” as defined by the Pension Protection Act of 2007, be limited to those persons and firms who truly receive level compensation;**
- 2. Disclosure of fees, costs and conflicts of interest to plan participants be redefined to provide participants with information to make informed investment decisions;**
- 3. Conflicts of interest must be discerned, aggregated, and affirmatively disclosed by plan sponsors to plan participants;**
- 4. Fee/cost disclosures and conflict of interest disclosures be included in the plan's SPD;**
- 5. The U.S. Department of Labor coordinate enhanced disclosures with similar efforts being undertaken by the U.S. Securities and Exchange Commission;**
- 6. A format for summary disclosure of fees and costs to plan participants be adopted; and**
- 7. Investment disclosures be developed for investments other than mutual funds.**

1. Ensure plan participants receive truly objective fiduciary advice. While the following recommendations focus on disclosure, it must be recognized that disclosures of fees, costs, and other material information regarding investments is often ineffective. As a recent report noted, “individual consumers possess substantial barriers, resulting from behavioral biases, to the provision of informed consent, even after full disclosure. ‘Not only can marketers who are familiar with behavioral research manipulate consumers by taking advantage of weaknesses in human cognition, but ... competitive pressures almost guarantee that they will do so.’”ⁱ

Given the inherent limitations of disclosure, and the complexity of the financial markets and investment decision-making, where can investors turn? The answer is a *fiduciary adviser*, as contemplated by the Pension Protection Act of 2007 (PPA).

Under the PPA, an eligible investment advice arrangement is one that provides, among other conditions, either that any fees (including any commissions or other compensation) received by the *fiduciary adviser* for investment advice or relating to an investment transaction involving plan assets not vary depending on the basis of any investment option selected. NAPFA is concerned that the multitude of compensation arrangements between financial services firms may violate the “level compensation” requirement. NAPFA hence suggests that the U.S. Department of Labor require that, in order for any person (or his or her firm) to hold out as a *fiduciary adviser* under the provisions of the PPA, that all compensation arrangements must be reviewed in order to verify that no impermissible fee-sharing or other arrangements or hidden compensation occur which would vary the compensation of the individual and/or his or her firm. The fiduciary standard is the highest standard under the law, and its status as such should be preserved and not degraded by particular exceptions.

An example of compensation arrangements which would render a person or his or her firm unable to claim *fiduciary adviser* status on the basis that “level compensation” exists for all plan investment options, is the payment of soft dollar compensation to a registered representative and/or his or her brokerage firm, and/or payment for “shelf space,” and/or direction of substantial brokerage transactions to a broker-dealer firm by a fund company. Any one or more of these compensation methodologies may well constitute payments which do not meet the requirement set forth above. It is well known within the securities industry that many forms of compensation are provided to broker-dealer firms and their affiliates in connection with investment products. Any and all forms of material compensation received by a broker-dealer firm and/or its affiliates should be ascertained and fully disclosed to the plan sponsor. Only those individuals and/or firms which truly receive “level compensation” (i.e., not paid any more or less depending on the specific investments chosen by the participant) should be eligible to be “fiduciary advisers.”

2. Current disclosures to plan participants are inadequate. ERISA fiduciaries must make decisions in the best interest of plan participants and beneficiaries, and ensure that the costs

NAPFA Comments on 401k Account Disclosures

associated with defined contribution plans are both appropriate and reasonable. In addition, plan sponsors possess the obligation to ensure that participants can undertake decisions with regard to their investment choices based upon accurate and complete information.

We believe the goal of any disclosure is adequately set forth in the Regulations promulgated under Section 404(c), where at section 2550.404c-1(b)(2)(i)(B) it states: “The participant or beneficiary is provided or has the opportunity to obtain sufficient information to make informed decisions with regard to investment alternatives available under the plan” Unfortunately, it is our opinion that the current scheme of disclosure is terribly inadequate, in both content and form, to meet this objective, and that as a result plan providers and plan participants are often misinformed as to the true cost of the investment options within a plan. Furthermore, the vast majority of disclosures currently utilized do not meet the requirements of section 2550.404c-1(b)(2)(i) (B)(2)(i), which provides for the identified plan fiduciary (or his or her designee) to provide a “description of the annual operating expenses of each designated investment alternative (e.g., investment management fees, administrative fees, transaction costs) which reduce the rate of return to participants and beneficiaries, and the aggregate amount of such expenses expressed as a percentage of average net assets of the designated investment alternative”

Current 401k marketing materials and other plan informational materials fail to provide comprehensive disclosure of fees and costs. In fact, under many group annuity plans the mortality and expense charges are poorly referenced and rarely disclosed alongside the disclosure of fund operating expenses. Additionally, rarely is information disclosed regarding the “transaction costs” of mutual funds and similar investment vehicles, despite the requirement of the regulations. This leads many participants in 401k plans to believe that the fees they are paying in connection with their investments in the plan are much less than the actual amount.

3. Provide affirmative written disclosures of conflicts of interests. Conflicts of interests that exist often lead to higher fees and costs and provision of inappropriate advice to plan participants. We believe that responsibility for ascertaining conflicts of interest which may exist, including cross-payments between various service or product providers, should rest with the plan sponsor. In order for plan sponsors to meet this responsibility, all plan service and product providers should be required to disclose to the plan sponsor any and all material conflicts of interests and compensation arrangements which may exist, in detail. The plan sponsor should aggregate such disclosures and provide them to plan participants at the same time fee disclosures are provided.

4. Provide for placement of disclosures in summary plan description (SPD). We further recommend that both the summary fees and costs disclosure and the written disclosure of conflicts of interest be included as part of the Summary Plan Description (SPD), and that the SPD content regulations be modified accordingly.

5. DOL coordination with SEC initiatives is desired. We encourage the U.S. Department of Labor to continue to coordinate disclosures with initiatives and rule-making currently under consideration at the U.S. Securities and Exchange Commission.ⁱⁱ In particular:

NAPFA Comments on 401k Account Disclosures

Point of Sale Disclosure Proposed Regulation. The U.S. Securities and Exchange Commission is likely to re-propose a rule requiring “point-of-sale” disclosures.ⁱⁱⁱ Since all purchasers of mutual funds and variable annuity products, not just 401k plan participants, deserve better disclosures regarding the fees and expenses associated with their investments, we encourage the U.S. Department of Labor and the U.S. Securities and Exchange Commission to work together to enhance the disclosure regimen, for the benefit of all Americans who invest in these products. Through the adoption of “point-of-sale” or “point-of-recommendation” disclosures in a summary, yet comprehensive and meaningful, format, all Americans will benefit.

12b-1 Fees Under Review. 12b-1 fees are commonly utilized in 401k plan investments to compensate one or more service providers. It should be noted that the U.S. Securities and Exchange Commission is also undertaking a review of the propriety of 12b-1 fees, and hosted a full-day roundtable on this subject on June 18, 2007. It should be noted that payment of 12b-1 fees to broker-dealer firms and their registered representatives, when such fees were utilized to fund the provision of ongoing advisory services to brokerage customers, appeared to violate the “incidental advice” only and no “special compensation” tests found in the broker-dealer exclusion from the application of the Investment Advisers Act of 1940.^{iv} Hence, 12b-1 fees may be either eliminated or their utilization substantially curtailed in future SEC rule-making, and this may affect the DOL’s rule-making efforts.

Soft Dollar Compensation. Unfortunately current statutory law permits the payment of “soft dollar compensation.” Recently the SEC published interpretive guidance that clarifies that money managers may only use soft dollars to pay for eligible brokerage and research services — and not for extraneous expenses.^v However, the existence of soft dollar compensation serves to increase the amount of brokerage commissions paid by a mutual fund. Brokerage commissions paid by a fund can usually be discerned only in a mutual fund’s Statement of Additional Information, which is rarely obtained and read by individual investors; such information is usually not disclosed in a fund’s Prospectus. Nor can such information be found in a fund’s summary “Fact Sheet.” Since brokerage commissions are not part of the fund’s annual expense ratio, the lack of adequate disclosure of brokerage commissions in a summary format is troublesome.

6. A proposal for a summary disclosure format for fees and costs: mutual funds and variable annuities. NAPFA fully supports the concept that information relating to investment options under a plan, including all attendant fees and expenses, be provided to participants in a summary and uniform fashion. To this end, NAPFA proposes a format for disclosure, set forth as Exhibit A hereto.

In formulating this disclosure format, NAPFA’s working group on this issue observed the following general principles:

- The fee disclosure form itself should be written in plain English, to the extent possible.

NAPFA Comments on 401k Account Disclosures

- Many of the fees and costs associated with investing are described in terms which are unfamiliar to most individual investors. Definitions of terms should be provided on an included page.
- The form's design should be easy to read and understand. The font should be in a size that can be easily read. Colors should be used differentiating sections. NAPFA encourages the DOL and SEC to employ graphic designers.
- We suggest that fund expenses be set forth on two pages of the document, and that other expenses associated with a 401k plan be set forth on a separate page. In this manner:
 - The fund expense disclosures can follow the eventual format of a point-of-sale or point-of-recommendation disclosure to be recommended by the SEC, and responsibility for disclosure of investment-associated expenses is borne by the investment product manufacturer.
 - Other expense disclosures associated with the plan, but not with the fund itself, should be separately formulated as a disclosure document for each plan, and responsibility for such disclosures should be the responsibility of the plan sponsor. It is likely that the plan sponsor will be assisted in the formulation of each plan's disclosure document by the plan's administrator and/or investment consultant.
 - We acknowledge that education of plan participants will be required for many plan participants to successfully "add up" the total fees and costs associated with their 401k plan and investments in the plan. We suggest that fiduciaries to the plan possess the responsibility to ensure such education occurs on at least an annual basis.

NAPFA further recommends that the disclosure document be distributed as follows:

- At the time of initial enrollment in the plan by a participant;
- Upon the initial purchase of a fund by a plan participant; and
- Annually to the plan participant.

Additionally, the fee and costs disclosure document should be made available on any web site which may be provided to plan participants in connection with their plan, with clear links provided to the summary disclosure document on each page of the web site.

In lieu of delivery of written disclosure documents, such as a fund's Prospectus, Statement of Additional Information, and Annual Report, these documents could be made available on the web site maintained by the plan. We note that all too often one or more of these reports are not actually made available on mutual fund web sites; hence, compliance with web access to these reports should be monitored. We recommend that the summary disclosure document, of the

NAPFA Comments on 401k Account Disclosures

type attached as Exhibit A, should be provided as a hand-delivered or mailed written document, at the times indicated above.

7. Investment disclosures should be developed for investments other than mutual funds.

While information on diversified mutual funds (and annuity sub-account holdings) can be disclosed as indicated above by enhancing current SEC disclosure regimens, other types of investments which are or might be utilized in a retirement plan also merit increased disclosure.

Separate Accounts. There has been a recent trend toward the utilization of separate accounts, commingled or internally managed investment options in 401k plans. Such types of investments should be required to undertake the same disclosures as exist for mutual funds, even if such disclosures are not mandated under SEC disclosure regimens.

Individual Stocks. The purchase of individual stocks (including company stock) could be accompanied by the following disclosure: "You should be aware that there is a risk to holding substantial positions in the individual securities of any one company, such as individual stocks or bonds. Individual securities tend to have wider price swings, up and down, in short periods of time, than investments in diversified funds."

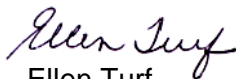
Hedge Funds. If investments are permitted in hedge funds, the potential high risks of these investments and/or the lack of diversification should be emphasized, along with comprehensive fee and cost disclosures.

The National Association of Personal Financial Advisors thanks the U.S. Department of Labor for the opportunity to submit these comments. As the nation's leading organization of fiduciary financial advisors, we are available to respond to questions or lend further assistance as the Department may desire.

Sincerely,



Richard Bellmer
Chair, NAPFA



Ellen Turf
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EXHIBIT A: PROPOSED DISCLOSURE FORMAT

(NAME OF MUTUAL FUND)

page 1 of 4

The Fees That You Pay In Connection With This Mutual Fund or Variable Annuity Sub-Account and Your Retirement Plan

Academic evidence suggests that, on average, investment products with higher fees underperform similar investment products with lower fees.

PART ONE: Fees You Pay When You Buy (Sales Loads)

This is the amount you pay “up front” as sales fee (or “load”) for Class A mutual fund shares. This is expressed as a percentage of the amount you invest. The table at right enables you to calculate the actual amount of this sales fee, based upon the amount you place in this fund.

The impact of this up-front sales fee upon your investment returns is dependent upon how long you hold this investment. The impact of the 5.75% sales fee is summarized as follows:

	Assuming a 7% annual rate of return,
	the 5.75% sales fee reduces your annualized return by the
If you hold this following fund investment for:	percentage each year, on average:
1 year	___%
3 years	___%
5 years	___%
7 years	___%
10 years	___%
15 years	___%

The amount you invest:	\$ 1,000
X the percentage sales fee:	x 5.75%
= the amount of your sales fee	= \$ 57.50

Sales loads (are/are not) imposed upon reinvested dividends from the fund and reinvested capital gain distributions from the fund.

PART TWO: Fees You Pay Each Year In Connection With This Fund

Annual annuity mortality/expense charges:

___%

Annual fund 12b-1 distribution fees:

___%

Annual fund management fees:

___%

Annual fund administrative charges:

___%

For an explanation of each of these fees, see pages 3-4.

* Annual fund brokerage commissions paid are estimated based upon the prior years' commissions paid by the fund. Current and future year brokerage commissions paid by the fund may be higher or lower.

** Annual “other fund transaction costs” include bid-ask spreads, market impact costs, principal mark-ups and mark-downs on fixed income trades, and opportunity costs due to delayed or canceled trades. These annual costs are estimated based upon methodologies approved by the U.S. Dept. of Labor; actual “other fund transaction costs” may be

NAPFA Comments on 401k Account Disclosures

Annual fund brokerage commissions paid*:

____%

Annual other fund transaction costs**:

____%

**SUB-TOTAL ANNUAL FEES PAID EACH
YEAR: ____%**

higher or lower each year.

(NAME OF MUTUAL FUND)

page 2 of 4

The Fees That You Pay In Connection With This Mutual Fund or Variable Annuity Sub-Account and Your Retirement Plan

PART THREE: Fees You Pay If You Sell Your Fund Shares

Should you sell fund shares which you have purchased prior to the date set forth below, you will pay a deferred sales charge as follows:

If share is sold 0-1 years following purchase: ____%
If share is sold 1-2 years following purchase: ____%
If share is sold 2-3 years following purchase: ____%
If share is sold 3-4 years following purchase: ____%
If share is sold 4-5 years following purchase: ____%
If share is sold 5-6 years following purchase: ____%
If share is sold 6-7 years following purchase: ____%
If share is sold 7-8 years following purchase: ____%
If share is sold 8-9 years following purchase: ____%
If share is sold 9-10 years following purchase: ____%
If share is sold more than 10 years
following purchase:
____%

You pay a sales fee for Class B shares when you sell them — at the back end. This fee varies with both the value of the shares you sell and the length of time you hold them.

The Impact of Fees and Expenses On Your Retirement Income. In a 401(k) plan, your account balance will determine the amount of retirement income you will receive from the plan. While contributions to your account and the earnings on your investments will increase your retirement income, fees and expenses paid by your plan may substantially reduce the growth in your account. The following example demonstrates how fees and expenses can impact your account. Assume that you are an employee with 35 years until retirement and a current 401(k) account balance of \$25,000. If returns on investments in your account over the next 35 years average 7 percent and fees and expenses reduce your average returns by 0.5 percent, your account balance will grow to \$227,000 at retirement, even if there are no further contributions to your account. If fees and expenses are 1.5 percent, however, your account balance will grow to only \$163,000. The 1 percent difference in fees and expenses would reduce your account balance at retirement by 28 percent.

NAPFA Comments on 401k Account Disclosures

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(NAME OF MUTUAL FUND)

page 3 of 4

The Fees That You Pay In Connection With This Mutual Fund or Variable Annuity Sub-Account and Your Retirement Plan

PART FOUR: Other Fees and Expenses You Will Pay In Connection With This Retirement Plan

<p>Annual custodial fees: ____%</p> <p>Annual plan recordkeeping and administrative fees* : ____%</p> <p>Annual investment consulting/trustee fees: ____%</p> <p style="color: red;">SUBTOTAL OTHER PLAN FEES: ____%</p>	<p>* Annual plan recordkeeping and administrative fees are estimated based upon prior year's fees and are allocated to plan participants (pro rata based upon account balances) (equally based upon the number of participants)</p>
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PART FIVE: Other Fees and Expenses You May Pay In Connection With This Plan

Loan Fee	\$____ per loan
Other Fees (describe)	

Find Out More About The Risks, Goals, and Historical Returns of This Investment

Additional information on this fund can be found by carefully reviewing the fund's Prospectus, Statement of Additional Information, Annual Report, and semi-annual and quarterly reports. You may obtain this information by calling (800) 999-9999 or on line at www.____.com.

You should consider all the costs, goals and risks associated with any fund before you buy. Read about this information, along with historical returns, in the fund prospectus. Please note that past performance is not a guarantee of future returns. You may obtain a copy of the fund's prospectus by calling (800) 999-9999 or on line at www.____.com.

Find Out More About Conflicts of Interest

Your plan sponsor (i.e., employer) has responsibility to ascertain conflicts of interest which may exist between service and product providers to this 401k plan and to ensure that such conflicts of interest do not result in excessive fees and costs associated with this investment or this plan. Information regarding these conflicts of interests and any fee-sharing or cross-payment arrangements can be obtained online at www._____.com or by calling (phone #).

(NAME OF MUTUAL FUND)

page 4 of 4

The Fees That You Pay In Connection With This Mutual Fund or Variable Annuity Sub-Account and Your Retirement Plan

Definition of Terms:

Sales load (up-front sales charge).

Annual annuity mortality and expense charges.

Annual fund management fees.

Annual fund administration fees.

Annual fund distribution (12b-1) fees.

Annual fund brokerage commissions paid.

Annual other fund transaction costs (bid-ask spreads, market impact costs, opportunity costs due to delayed or canceled trades).

Annual fund opportunity costs due to average cash holdings in the fund.

Contingent deferred sales charge (surrender fee).

Annual custodial fees.

Annual plan recordkeeping and administrative fees.

Annual investment consulting/trustee fees.

[DEFINITIONS TO BE COMPLETED.]

EXHIBIT B: SHINING THE LIGHT ON “HIDDEN FEES AND COSTS”

Despite the principle that plan participants should have clear information on the costs associated with investing through their defined contribution plans, current fund disclosures omit or obscure many of the “hidden” costs associated with investing or mislead as to their impact upon investor returns. The annual expense ratio of a mutual fund does not include the following real costs, fees, and expenses:

- Brokerage commissions and/or principal mark-ups/markdowns paid by the fund in connection with trading;
- Bid-ask spreads;
- Market impact costs;

Together these costs can often be as much as, or even greater than, the fund’s disclosed annual expense ratio. See Edelen, Evans and Kadlec, “Scale effects in mutual fund performance: The role of trading costs” (March 17, 2007), available at https://wpweb2.tepper.cmu.edu/wfa/wfsecure/upload/2006_1.870275E+07_WFA_TradingCosts_Text_NoName.pdf. The authors of this white paper provide the following summary:

[O]ur paper makes four empirical contributions to the literature:

- Mutual funds’ annual trading costs are larger in magnitude than the expense ratio. In contrast to the ambiguous relation between turnover and performance, annual trading costs bear a statistically significant negatively relation to performance.
- The negative impact of trading on performance is most pronounced for funds with a relatively large average trade size. Trading does not adversely impact performance at funds with a relatively small average trade size. Moreover, after controlling for trading costs fund performance is no longer related to fund size. Thus, trading costs are the dominant source of diseconomies of scale in investment management.
- Flow-driven trades are shown to be significantly more costly than discretionary trades in a much larger sample and longer sample period than previously documented. This nondiscretionary trade motive partially – but not fully – explains the negative impact of trading on performance.
- Conrad, Johnson, and Wahal (2001) document that soft-dollar trades have higher costs. We show that soft dollars are also associated with substantially higher levels of trading activity and a negative impact on fund performance.

While “portfolio turnover” has sometimes been suggested as appropriate for disclosure, NAPFA notes two fundamental problems with mere disclosure of portfolio turnover: (1) “portfolio turnover” is understated under the computation method adopted by the SEC; and (2) individual investors are seldom equipped with the knowledge necessary to understand the impact of portfolio turnover as an additional cost borne by the investor. Given that for domestic stock funds, the average turnover rate was approximately 94%, both as reported by Morningstar, Inc., on December 31, 2006, it is important that portfolio turnover rates be accurately presented and that portfolio turnover rates result in estimates of expenses, in percentage terms, which are ultimately borne by the investor.

NAPFA Comments on 401k Account Disclosures

It should further be noted that Morningstar is in the process of development of a method of estimating costs relating to portfolio turnover.

Absent actual computation of such costs by mutual funds themselves, using approved methodologies and employing capable consultants where proper, estimation of portfolio transaction costs by other methods should be utilized. Estimating costs is far more preferable than ignoring them.

The SEC has acknowledged the inadequacy of current disclosure of transaction costs. "Although transaction costs are taken into account in computing a fund's total return, they are not included in a fund's expense ratio because under generally accepted accounting principles they are either included as part of the cost basis of securities purchased or subtracted from the net proceeds of securities sold and ultimately are reflected as changes in the realized and unrealized gain or loss on portfolio securities in the fund's financial statements. As a result, current disclosure requirements focus on providing fund investors with information about two items that are related to transaction costs - portfolio turnover rate and dollar amount of brokerage commissions. All mutual funds (except money market funds) are required to disclose in their prospectuses the annual rate of portfolio turnover that they have incurred during the last five fiscal years. Investors can compare turnover rates to obtain an indication of how transaction costs are likely to vary among different funds. Funds (with the exception of money market funds) also must disclose in the Statement of Additional Information ("SAI") the actual dollar amount of brokerage commissions that they have paid during their three most recent fiscal years. The Commission is concerned that the current disclosure requirements do not directly address a fund's overall transaction costs or elicit sufficient information about these costs ... Although estimates of the magnitude of transaction cost and its components vary, the following estimates are representative. For the average stock fund, commission costs have been estimated at almost .30% of net assets (an amount equal to approximately 20% of the 1.42% expense ratio of the average long-term mutual fund in 2002); and spread costs have been estimated at approximately .45% of net assets (approximately 30% of the average expense ratio.) Market impact cost and opportunity cost are more difficult to measure. One study estimates that total transactions costs (including market impact and opportunity costs) for large capitalization equity transactions range from 0.18% to as much as 1% of the principal amount of the transaction. Another study estimates that for institutional investors, under relatively stable market conditions, opportunity costs may amount to 0.20% of value. To summarize, commissions are explicit costs, readily identifiable and quantifiable. Spread, impact, and opportunity costs are implicit costs. Because the implicit costs, which are difficult to identify and quantify, can greatly exceed the explicit costs, there is no generally agreed-upon method to calculate securities transaction costs." Concept Release, "Request for Comments on Measures to Improve Disclosure of Mutual Fund Transaction Costs," SEC Release Nos. 33-8349; 34-48952; IC-26313; File No. S7-29-03 (Dec. 18, 2003).

NAPFA Comments on 401k Account Disclosures

ⁱ Final Report on Financial Planner Standards of Conduct, prepared by the FPA® Fiduciary Task Force (June 1, 2007), at page 113, available at http://www.fpanet.org/member/govt_relation/professional/index.cfm.

ⁱⁱ In testimony before the House Committee on Financial Services on June 26, 2007, SEC Chairman Christopher Cox and Commissioners Paul S. Atkins, Roel C. Campos, Annette L. Nazareth, and Kathleen L. Casey stated: “Another of our important initiatives to benefit individual investors is our drive to improve the quality and clarity of mutual fund and 401(k) disclosure, which we have undertaken along with other departments and agencies, including the Department of Labor. Forty-seven million Americans now have 401(k) accounts through their employers, and these and other defined contribution plans now represent over \$3 trillion in assets. These investments embody the hopes and aspirations of millions of Americans for a secure, decent retirement. But the disclosure that the individual investor receives about what is in the 401(k) is typically inadequate — often nothing more than one-page charts that contain extremely limited information. What is needed is clearly presented information that makes it far easier for busy Americans to understand the expenses they are being charged in connection with their investments, and the returns they are actually getting compared to an appropriate index. This sort of simplified disclosure should be readily available to every 401(k) plan participant. Nearly half of the \$3 trillion that Americans have invested through defined contribution plans is in mutual funds, so we are hard at work on a simplified, plain English disclosure for mutual funds that gives investors what they need to know, in a form they can use. We are focused on a new, streamlined disclosure document for investors that will provide better information about investment objectives, strategies, risks, and costs. Ideally, that information could be made available online, or in writing — as the investor prefers. We are also considering making information about funds and the brokers that sell them available at the point of sale.”

ⁱⁱⁱ See SEC Release Nos. 33-8544; 34-51274; IC-26778; File No. S7-06-04, “Point of Sale Disclosure Requirements and Confirmation Requirements for Transactions in Mutual Funds, College Savings Plans, and Certain Other Securities, and Amendments to the Registration Form for Mutual Funds,” Feb. 28, 2005, available at <http://www.sec.gov/rules/proposed/33-8544.htm>.

^{iv} See comments regarding 12b-1 fee payments submitted by NAPFA-Registered Financial Advisor member Ron A. Rhoades, June 18, 2007, available at <http://www.sec.gov/comments/4-538/4538-73.pdf>.

^v See SEC Release No. 34-54165; File No. S7-13-06, “Commission Guidance Regarding Client Commission Practices Under Section 28(e) of the Securities Exchange Act of 1934,” July 18, 2006, available at <http://www.sec.gov/rules/interp/2006/34-54165.pdf>.