

SEWARD & KISSEL LLP

1200 G STREET, N.W.
WASHINGTON, D.C. 20005

WRITER'S E-MAIL

Clarke@sewkis.com

TELEPHONE: (202) 737-8833
FACSIMILE: (202) 737-5184
WWW.SEWKIS.COM

ONE BATTERY PARK PLAZA
NEW YORK, NEW YORK 10004
TELEPHONE: (212) 574-1200
FACSIMILE: (212) 480-8421

March 4, 2008

VIA E-MAIL

Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 205499

Re: File Number S7-28-07

Dear Ms. Morris:

This is in response to the request for comments by the Securities and Exchange Commission ("SEC") on the proposed amendments to the prospectus disclosure requirements for open-end investment companies ("funds") under the Securities Act of 1933 (the "1933 Act") and the Investment Company Act of 1940 (the "1940 Act"). These comments are based on my extensive experience with prospectus disclosure issues through my participation while a member of the staff of the SEC in the last round of amendments to fund disclosure requirements in 1998 and on my own experience in private practice. The comments are my own views on disclosure issues and do not necessarily reflect those of associates or clients of Seward & Kissel LLP.

General

The SEC has proposed revisions of the Form N-1A disclosure requirements to incorporate a standardized presentation at the front of the prospectus and a Summary Prospectus that would include the same information. There is little question that the information provided to investors in fund offering documents should move to more accessible and understandable formats and seek to integrate the Internet into the offering process. The difficult issues are how best to accomplish these goals. The SEC is to be commended for its efforts to bring new innovations to the mutual fund offering process. In my view, however, the proposed amendments have serious drawbacks for the following reasons:

- Lack of Flexibility. The proposed amendments would require a fund to use the same standardized format to present information in its prospectus and in the Summary Prospectus. Funds would have no flexibility to design their offering documents to "tell their story". There are large numbers of funds and an immense variety of fund offerings. Funds may invest in specific types of investments (*e.g.*, bonds, equity

securities), specific geographic areas (*e.g.*, a state, the United States, Europe, Asia), a specific investment style (*e.g.*, growth or value) or they may use broad investment strategies that utilize many types of investments, global strategies and investment styles. Funds may be offered to investors in different ways (*e.g.*, sold directly or through intermediaries). In light of this diversity, it does not seem justifiable to confine funds to one standardized format. Indeed, this inflexible approach is contrary to other of the SEC's recent disclosure initiatives for example, the "free-writing prospectus" adopted in 1995.

- Standardized Format Is Not Necessary in Prospectus. There is no need to tie the standardized information in the Summary Prospectus to the statutory prospectus. As the SEC discusses in its release, key information that investors need to make an investment decision includes disclosure about a fund's investment objectives and strategies, risks, costs and performance. The SEC concludes that since the information is the same, it should appear at the front of a prospectus in the same order. These documents have separate purposes and, if the goal is, as the SEC states, layering of information, there is no necessity for the layers to be the same. In addition, achieving the objective of a Summary Prospectus that will be used by funds should not result in a prospectus that has less understandable and more repetitious disclosure. The SEC should recognize that funds may continue to use the prospectus as their primary means of offering fund shares, particularly if the logistics and costs of distributing the Summary Prospectus prove to be daunting, and remain mindful of clear, concise disclosure in both documents.

Not all of the information required in the Summary Prospectus should be included at the front of a prospectus. As currently permitted by Form N-1A, funds should have the flexibility in the manner of the presentation, particularly for multiple fund prospectuses. Unlike the Summary Prospectus, which is a stand-alone summary, the front of the prospectus does not need to include information about, for example, management, purchase and sale information, and tax information that is disclosed elsewhere in a prospectus. This will lead to redundant and repetitive disclosure and is not consistent with plain English principles. In fact, the proposed amendments to Form N-1A instructions direct funds to ignore paragraph (a) of Rule 421 under the 1933 Act, which sets forth the SEC's views on plain English presentations.

Responses to Specific Requests for Comments

My comments focus on disclosure issues. In addition, comments on the summary required in the prospectus and in the new Summary Prospectus are different because, as discussed above, I do not believe the summaries should be the same.

1. General Instructions to Form N-1A

- Are the proposed revisions to the General Instructions appropriate? Will they be helpful in encouraging prospectus summary sections that address investors' preferences for concise, user-friendly information?

Response: As noted above, I do not believe that a standardized presentation is necessary in the prospectus. Since the last update of Form N-1A, most funds have revised the prospectus summary with the goal of presenting concise, user-friendly information. Funds have demonstrated that there are varieties of means of presenting information that are creative and innovative. The proposed amendments would prevent creativity and innovation and potentially result in boilerplate disclosure. The amendments would also result in increased costs for funds, which would have to make significant revisions to their prospectuses to conform to the SEC's proposed new approach. In addition, while not addressed in the SEC's release, the revisions would presumably require funds to file their prospectuses under Rule 485(a) with associated SEC staff review, instead of using the immediately effective provisions of Rule 485(b). This wave of filings would not only contribute to increased costs for funds, but would also impose substantial additional SEC staff burdens. The SEC should clarify whether the proposed amendments, if adopted, would result in material changes that would require a Rule 485(a) filing.

- Should we amend the General Instructions to Form N-1A in other respects? For example, should we impose any formatting requirements on the summary section of the prospectus, such as limitations on page length (*e.g.*, three or four pages) or required font sizes or layouts? Would any such formatting requirements further the goal of making the summary section a user-friendly presentation of information?

Response: I do not believe that other amendments are necessary that would impose additional restrictive requirements on the presentation of information in the summary section of a prospectus. Most risk/return summaries currently in fund prospectuses are two to three pages, which indicates to me that a page limitation has not proved to be necessary. Limitations on page length could constrain appropriate disclosure. Determining other formatting requirements that would be suitable to apply to all funds would be difficult and would not further the goal of making the summary section a user-friendly presentation of information.

- Is it appropriate to prohibit a fund from including information in the summary section that is not required?

Response: It may be appropriate to prohibit a fund from including information in the summary section that is not required, although I believe that some flexibility to provide additional explanation if it would be helpful for investor understanding of the required information would be beneficial.

- Are the proposed requirements for the order of information appropriate? Will they contribute to more readable prospectuses and summary information that is easy to evaluate and compare?

Response: If the information is a summary, I see no need to impose a specific order on the presentation of summary information in a prospectus. I believe most funds would order the information in order of its perceived importance to an investor's decision to purchase a fund's shares—generally investment objectives and strategies, principle risks, performance and fees.

- Is it helpful for the prospectus to have a separate summary section?

Response: As experience with the current risk/return summary has proved, it is helpful for a prospectus to have a separate summary section. For a prospectus, however, I believe the summary should be limited, as it is now, to key information about a fund, which is, as noted above, investment objectives and strategies, principal risks, performance and fees. I believe that additional information about management, purchases and sales, and tax information is not necessary at the front of a prospectus and will be repetitious, boilerplate disclosure that will not contribute to investor understanding. An investor can easily find this information in the prospectus by referring to the table of contents. In addition, this type of information is too brief to be very helpful to most investors, who would be better served by referring to the more fulsome descriptions included in the prospectus.

- Are the requirements with respect to multiple funds and multiple class prospectuses appropriate? Should we prohibit multiple fund or multiple class prospectuses altogether? Should we provide greater or lesser flexibility in the presentation of multiple fund or multiple class prospectuses? If we permit greater flexibility, how can we do so consistent with the goal of achieving concise, readable summaries? For example, if we permit integrated multiple fund summary presentations for some or all funds, should we also impose a maximum page limit on a summary section that integrates the information for multiple funds?

Response: In the release, the SEC evidences the opinion that multiple fund prospectuses are a "problem". The release cites no empirical data supporting this conclusion beyond the statement that some "prospectuses have integrated information for as many as 40 funds". The release gives no indication of how pervasive this purported problem is in terms of the number of funds that may be included in a single prospectus. Is the average ten funds? Is 40 funds an aberration? It does not seem to be an adequate basis for taking action with respect to multiple fund prospectuses.

The fund industry has used multiple fund prospectuses for years. This is for several reasons. Among other things, it is cost-efficient. Much of the information about a fund complex is the same so it makes sense to include it in one document with several funds. Funds then are able to print and make available fewer documents, which reduces costs. Funds also use multiple fund prospectuses for marketing reasons. For example, a fund

complex many offer several types of bond funds. By incorporating the bond funds into one prospectus, investors are able to review and compare the options available. In fact, it is advantageous to group some of the information together such as fees and expenses. This makes it easier for investors to compare the fees of different funds in the prospectus. Multiple fund prospectuses also serve to help funds with compliance with the federal securities laws by making it easier for funds to monitor the delivery of prospectuses. For fund complexes with 50 to more than 200 funds, precluding multiple fund prospectuses would be burdensome and costly. The SEC should continue to permit funds to use multiple fund prospectuses.

For some types of funds, the use of multiple fund prospectuses is necessary for investors to understand the options available. For example, life cycle or retirement date funds, which invest in the same underlying portfolios or investment strategies in varying proportions depending on retirement dates, need to be presented in one prospectus. It does not make sense to repeat the same information about the same underlying portfolios in different prospectuses; investors would not be able to easily understand the integrated design of this product.

There should be no question that multiple class prospectuses should continue to be permitted. The classes represent the performance of a single portfolio of securities and differ only as to sales charges and certain other class-related expenses. Investors need to be able to compare the classes in order to make a choice that is most appropriate for their circumstances. The burden and costs of making available prospectuses on a single class basis would be significant and would likely confuse investors rather than help them.

The amendments to the prospectus disclosure rules should, as I noted before, allow greater flexibility. The SEC's current standardized format will make prospectuses worse by requiring the repetition of the same information about, for example, fund management, purchase and sale information and taxes. The prospectus summary section should focus on the most important information about a fund, which are investment objectives and strategies, risks, performance and fees. Funds should have greater flexibility in the presentation of this information. I believe that greater flexibility and less required duplicative disclosure is consistent with concise, readable summaries.

I do not believe that page limits are a good idea for integrated multiple fund prospectuses. It could result in disclosure that is measured by a numerical standard rather than what is meaningful and important for investors.

- Should we eliminate or otherwise modify the optional separate purchase and redemption document? What, if any, purpose will this option serve if we adopt the new Summary Prospectus?

Response: Most funds have not used the optional separate purchase and sale document and I believe it is not necessary to retain it in Form N-1A. It is not particularly useful because of the costs and burdens of delivering and monitoring the delivery of additional

documents. As the SEC points out, if desirable, funds could use such a document as sales literature.

- Are there alternatives we should consider that would achieve our goal of providing enhanced disclosures to investors in a more cost effective manner?

Response: As discussed below in response to specific items in the summary, I think the SEC should consider revisions to certain disclosure, such as performance

2. Information Required in Summary Section

- Does the proposed summary section encourage prospectuses that are simpler, clearer, and more useful to investors? Would the proposed summary section help investors to better compare funds?

Response: I do not believe that the proposed summary will encourage prospectuses that are simpler, clearer and more useful to investors because it is too rigid and includes information that is not necessary in a summary. A specific format for the summary is not necessary to help investors compare funds because, as a summary, it is short enough for investors to easily find comparable information. Providing comparable information does not require the use of a specific standardized format.

- Should each of the proposed items be included in the summary section? Should any additional disclosure items currently required in Form N-1A be included in the summary section? Should we consider disclosure items that are not currently in Form N-1A? If so, what types of additional disclosures should we consider including in the summary section?

Response: Items (5) to (9) are not necessary in the prospectus summary. As more specifically discussed below, this information is available elsewhere in the prospectus or in other documents filed with the SEC. If this type of information is disclosed elsewhere, it would be consistent with a “layered” approach that it not be repeated in the summary I do not believe that other disclosure items should be added to the summary. The summary should be as simple and short as possible emphasizing the most important information, which is investment objectives and strategies, risks, performance and fees.

- How would the required narrative explanations of various items contribute to readability and length of the summary section? Should each of these explanations be required, permitted, or prohibited in the summary section? Should any of these explanations be required to appear in the prospectus, but outside the summary section?

Response: I believe that the narratives should be as short as possible to improve the readability of the summary. The SEC should consider modifying the narrative preceding the fee table to include the following: “Fees and expenses may reduce the Fund’s returns.” Investors need to appreciate the relationship of fees to performance.

- Is the proposed order of the information appropriate, or should it be modified? If so, how should it be modified?

Response: As I stated before, I think a rigid order for the summary is not good disclosure and will not improve the prospectus summary or make it more understandable to investors. Funds should have the flexibility to design and present the information in the prospectus summary. I strongly disagree with moving the Fee Table to the front of the summary. An investor would encounter a wall of numbers before the investor has any idea about a fund's investment strategies, risks and performance. I do not know if the SEC conducted focus groups or questioned investors about this presentation, but, in my view, this is a most un-investor friendly approach. The SEC states that this presentation "reflects the importance of costs to an investment decision". Costs are important but equally as important are what the fund does, how it does it and how it performs. Investors need to weigh all of these factors in making an investment decision, but they also need to know a fund's investment strategies, risks and performance in order to evaluate fees..

- Should we also require a fund to disclose whether its objective may be changed without shareholder approval in the summary section?

Response: Information about whether a fund's investment objective may be changed without a shareholder vote should not be included in the summary section. Funds include a general discussion of fundamental policies and other policies that cannot be changed without a shareholder vote in the prospectus. It would be better to address the topic in one location in the prospectus rather than piecemeal in the summary section.

- Are our proposed revisions to the fee table and example appropriate? Are there any other revisions to the fee table or example that we should consider?

Response: See below for comments on other specific changes to the fee table.

- Is the proposed disclosure at the beginning of the fee table regarding discounts on front-end sales charges for volume purchases (i.e., breakpoint discounts) appropriate?

Response: I believe the narrative should not include the sentence on sales charge discounts, which is generally highlighted in the purchase and sale information.

- Should we consider any other revisions to headings in the fee table to make them more understandable to investors? For example, should the terms "load" or "12b-1" be eliminated? Do investors generally understand these terms, or are there clearer terms that we should require?

Response: I believe the proposed change to the "Annual Fund Operating Expenses" to add the parenthetical "ongoing expenses that you pay each year as a percentage of the value of your investment" is a good change that will make it clearer to investors that

these amounts are recurring. It may be helpful to add “, which reduce the value of your shares”. This addition would further reinforce for investors that expenses affect the value of their investment. I believe that the term “load” should be eliminated to help simplify the table, not because investors do not necessarily understand the term but because it is duplicative of the term “sales charge”, which is generally understood by investors. I believe the reference to 12b-1 should be retained. This term is widely used in the press and likely familiar to most investors. In addition, it clarifies the term “distribution fees”, which may not be as well understood by investors.

- How, if at all, should expense reimbursement and fee waiver arrangements be reflected in the fee table and expense example and accompanying disclosures?

Response: I support the SEC’s proposal to rationalize the disclosure of expense reimbursement and fee waiver arrangements. The disclosure will assist investors in understanding the potential fees of the fund if no waivers/reimbursements were in place, while also providing information about current expenses. Gross operating expenses, particularly for new funds, may, as the SEC points out, overstate long-term expenses because the termination of a waiver/reimbursement may be offset by reduced expenses due to the economies of scale that result from asset growth.

While I understand the SEC’s reasoning in restricting the calculation of the example based on net expenses to the term of the waiver/reimbursement, normally one-year, it does result in anomalies, particularly for new funds, with expense examples sometimes amounting to \$10,000 or more. This is an unlikely result for any fund that intends to stay in business for any period of time and vastly overstates potential long-term expenses. I believe the SEC should consider allowing the net expense number to be reflected in the examples. Alternatively, the SEC should consider allowing examples to be shown on a gross and net basis.

- Should funds be required to disclose the detailed fee table information in the summary section or would it be more useful to investors to require disclosure of total shareholder fees and total annual fund operating expenses in the summary section and require disclosure of the detailed fee table outside the summary section? Are there any details regarding fund fees or expenses that should be included only outside the summary section? For example, the fee table currently permits “Other Expenses” to be subdivided into no more than three subcaptions that identify the largest expense or expenses comprising “Other Expenses.” Should we permit this detail in the summary section of the prospectus, or should we require that funds providing this level of detail include it outside the summary section?

Response: I believe shareholder fees should continue to be disclosed separately because it enables an investor to easily understand what these fees are, particularly for a multiple-class fund in which the fees differ between classes and include front-end loads and contingent deferred sales loads. However, I strongly support the idea of simplifying the operating expense portion of the fee table for the purposes of the summary and believe it would contribute to investor understanding by focusing on all-in fees rather than

components of the expenses. Disclosure of 12b-1/service fees should continue to be a separate line item so that investors can easily identify those funds that have these fees. Details about other expenses should be required in the prospectus, not the summary, since I believe that many investors are not interested in categories of expenses but would rather look at one number in the summary fee table. This information is more interesting and relevant to accountants, economists and other cognoscenti of fee information than to ordinary fund investors.

- Are there any revisions to the fee table example that would make it more useful for investors? For example, should the fee table example separately break out one-time charges, such as sales loads, and recurring expenses, such as management and 12b-1 fees?

Response: I believe that the examples should remain in their current form. A break-out of the one-time charges and recurring expenses would be confusing and not contribute to investor understanding.

- Should the required narrative explanation of the purpose of the fee table example be modified or eliminated?

Response: I suggest that the SEC consider simplifying the narrative preceding the fee table examples. My suggestion is that the narrative read as follows:

The examples provide you with information about the dollar amount of the Fund's expenses and enable you to make comparisons with other funds. The examples assume a \$10,000 investment with a 5% return each year, which is redeemed at the end of each period, and assume the Fund's operating expenses remain the same and dividends are reinvested. The actual costs of your investment may be higher or lower.

- Should the proposed disclosure regarding a fund's portfolio turnover rate be included in the summary section? Should the proposed portfolio turnover narrative disclosure be modified or should funds be required to disclose their portfolio turnover in the summary section without any narrative explanation? Should any additional information regarding a fund's portfolio turnover rate be required to be disclosed as part of the summary section, for example, information about a fund that engages in active and frequent trading of portfolio securities and the tax consequences to shareholders and effects on fund performance of increased portfolio turnover? Should funds be required to provide an explanation of the effect of portfolio turnover on transaction costs and fund performance? Should new funds (*e.g.*, funds with less than six months or one year of operations) be required to include information about portfolio turnover in the summary section given their limited period of operations? Is the portfolio turnover rate meaningful enough for a new fund that it should be required in the summary section?

Response: I believe that including portfolio turnover in the prospectus summary is misguided. I do not think this information is meaningful for investors as a separate

piece of information in a summary. It is a complex issue. Requiring enough disclosure to put it into context and make it meaningful would be inconsistent with the purpose of the summary. The SEC cites no empirical studies on the correlation of portfolio turnover to particular factors and I am not aware of any. There is much to-do made over portfolio turnover in the popular press and other venues, particularly by those who advocate that investors should only invest in index funds because they have low portfolio turnover. Many say that it increases brokerage and other costs, thus reducing return. Higher portfolio turnover may reduce returns, but other factors, such as successful investment strategies, may offset the effect on returns of higher portfolio turnover .

Others point to the fact that higher portfolio turnover may result in short-term capital gains that increase taxes payable by shareholders. This premise assumes that a fund will be selling securities positions with gains that will be realized on disposition of the positions. If a fund sells securities position with losses, it will potentially be able to shelter other gains. In many cases, a fund's manager will manage a portfolio to reduce taxable gains by selling positions with losses to match other sales of securities with gains that will be realized. In this event, portfolio turnover is a positive feature of portfolio management. It is simplistic to view portfolio turnover as necessarily resulting in increased taxes.

Higher portfolio turnover in a particular year may reflect cash flows or a change in portfolio manager or investment strategy. As a result, disclosing portfolio turnover for one year could be particularly misleading.

Some funds pursue aggressive investment strategies that emphasize higher portfolio turnover. Higher portfolio turnover for these funds may result in higher return. Other types of funds, such as small-capitalization funds, tend to have higher portfolio turnover, reflecting the smaller number and investment value available for, and the volatility of, these types of investments. Bond funds, particularly those that invest in short-term fixed-income securities, tend to have higher portfolio turnover reflecting the necessity to roll over their investments as bonds mature or interest rates change. I question whether portfolio turnover is at all meaningful for bond funds. It is unlikely to increase costs because bond funds generally trade on a principal basis and bond funds do not typically recognize significant gains on sales of bonds.

For these reasons, I urge the SEC to seriously reconsider whether it is helpful to investors to include portfolio turnover.

- Should we consider any revisions to the bar chart or table disclosing a fund's returns? For example, should we modify or eliminate the required explanation that this information illustrates the variability of a fund's returns?

Response: I do not recommend changing the bar chart or the required explanation. I believe it is important for investors to understand how fund returns change from year to year and what effect it could have on their investment. For example, two funds could

have the same 10% annualized return over 10 years. For one fund, the return could range around 10% for every year over the 10-year period. For this fund, an investor would not risk losing the value of his or her investment. The other fund's returns could range from, for example, -20% to +38%. For this fund, an investor would have the possibility of losing a significant portion of his or her investment in any one year. The bar chart conveys this information very effectively and the brief explanation highlights the importance of the variability of returns for investors.

I do recommend that the SEC consider revisions to the annual return information. Under the current required presentation for multiple classes, investors may not understand that they are investing in the same portfolio of securities. I recommend adding a column for portfolio return, without sales charges, followed by columns for each class with sales charges. This presentation would help investors to understand the effect of fees on their investment.

I also recommend moving the after-tax return information to the prospectus. In my view, this information is too generic to be very useful because investors' taxes differ significantly. As many investors are in tax-deferred accounts (around 50%), such as 401(k) plans, the information is not relevant to them. The after-tax return information makes the return information presentation confusing and is not consistent with the goal of concise, understandable disclosure.

- Are there additional performance measures, such as past performance adjusted for the impact of inflation, that should be required in the summary section?

Response: I do not support adding additional performance measures to the prospectus summary. The performance information should be concise, simple and straightforward without additional clutter.

- Should we require disclosure regarding portfolio holdings in the summary section? If so, what information should be required, *e.g.*, top five holdings, top 10, top 25? If we require portfolio holdings disclosure, should any funds be exempt from the requirement, *e.g.*, money market funds or exchange-traded funds? Should new funds be exempt from this requirement? Are there circumstances where this disclosure might not be useful to investors or where additional information regarding a fund's investment exposures would be necessary to make the portfolio holdings information useful, for example, where the top 10 holdings represent a relatively small percentage of the fund's total holdings? Should we require funds to disclose additional information such as the percentage of a fund's net assets represented by the combined top 10 holdings? Should we require a fund to disclose its holdings that represent a specified percentage of the fund's holdings?

Response: I do not support disclosure regarding portfolio holdings in the prospectus summary. Investors invest in funds for professional management. I do not believe that a fund's top ten holdings are meaningful to investors. Would an investor make an investment decision based on this information? I would hope not. Would an investor

disagree with the professional manager's choice of investments? If so, the investor should consider selecting his or her own investments. Information about a fund's portfolio holdings is available in shareholder reports, is filed with the SEC four times a year, and is generally available on a fund's website. In addition, information about a fund's portfolio holdings tends to become stale quickly as the fund's investments change. There seems to be little justification for including it in the prospectus summary, particularly if the goal is layering of information. The presentation and content of the top ten holdings is complicated, as is indicated by the SEC's proposed rule and the number of questions posed by the SEC about the proposed disclosure.

- Should we require funds to present tables, charts, or graphs that depict portfolio holdings by reasonably identifiable categories (*e.g.*, industry sector, geographic region, credit quality, maturity, etc.) either instead of, or in addition to, top 10 portfolio holdings?

Response: While I continue to doubt that information about a fund's portfolio holdings is meaningful for an investor who is selecting a professional manager, it may be appropriate to provide information about a fund's portfolio on a broad basis by identifiable category that would provide investors with an overall view of the fund's portfolio. Funds often provide this information in shareholder reports in pie graphs or similar presentations and should be permitted to do so in the prospectus summary.

- Should, as proposed, a fund having three or more sub-advisers be required to identify only those sub-advisers that are (or are reasonably expected to be) responsible for the management of a significant portion of the fund's net assets? Are there situations where this would result in the disclosure of no sub-advisers and, if so, would this be appropriate? Should we, as proposed, provide that a "significant portion" of a fund's net assets generally would be deemed to be 30% or more of a fund's net assets? Should a higher or lower percentage or some other measure or standard be used?

Response: I believe the proposed disclosure about sub-advisers is appropriate. I recommend that the SEC modify its proposed disclosure about portfolio managers. I believe that, if a fund is team-managed, it should be sufficient to disclose that in the prospectus summary and leave more disclosure about the members of the team to be provided elsewhere in the prospectus. This disclosure could add unnecessary details and length to the prospectus summary.

- Should any or all of the information that we propose to require in the summary section regarding the purchase and sale of fund shares be permitted rather than required? Should any of this information be prohibited from being included in the summary section?

Response: This disclosure is unnecessary in the prospectus summary and should not be required.

- Should any additional information regarding the purchase and sale of fund shares be required to be disclosed in the summary section? For example, should information regarding policies and procedures with respect to frequent purchases and redemptions of fund shares be disclosed in the summary, or is it appropriate to maintain the location of this information elsewhere in the prospectus?

Response: As noted above, I do not support disclosure of purchase and sale information in the prospectus summary.

- Is there any additional tax information that should be included in the summary section?

Response: I do not support disclosure of tax information in the prospectus summary.

- Should we require disclosure regarding the compensation of broker-dealers, banks, and other financial intermediaries in the summary section? Should we permit this disclosure to be omitted or modified in any context? For example, should a fund be permitted to omit this disclosure if the fund is marketed directly to investors or where a transaction is initiated by an investor and not on the basis of a financial intermediary's recommendation? Should funds be permitted to modify this disclosure to reflect the fact that some transactions may be initiated by an investor and not on the basis of a financial intermediary's recommendation?

Response: I do not support requiring this disclosure in a fund prospectus. Any such disclosure obligations should be the responsibility of the intermediary and should be disclosed at the time of sale of a fund's shares by the intermediary.

3. Use of Summary Prospectus and Satisfaction of Statutory Prospectus Delivery Requirements

- Should we permit mutual funds to meet their prospectus delivery obligations in the manner provided in the proposed rule? Does this approach adequately protect investors and provide them with material information about the fund? Does the proposed approach adequately protect investors who have no Internet access or limited Internet access or who prefer not to receive information about mutual fund investments over the Internet? Should we make any other changes with respect to prospectus delivery obligations?

Response: I support the prospectus delivery requirements in the proposed rule.

- Should we permit mutual funds to meet their prospectus delivery obligations by filing with the Commission and/or by posting online without giving or sending a Summary Prospectus?

Response: While this is an interesting alternative, it may be premature to rely exclusively on filing and posting online since not all fund investors have Internet access.

- Should mutual fund investors have the ability to opt out of the rule permanently and thereafter receive a paper copy of any statutory prospectus? How could this be implemented in practice? For example, how would a mutual fund that had no prior relationship with an investor be apprised of the investor's decision to opt out? Could such an opt-out provision be implemented on a fund or fund complex basis?

Response: I do not believe that investors should have the opportunity to opt out of the rule permanently. It is unclear how investors could opt out unless they had an existing account with a fund. It would be difficult and burdensome for funds and fund complexes to administer. The purpose of the new delivery option will not be fulfilled unless standardized delivery requirements are adopted. Investors can always view the statutory prospectus on the Internet or request a paper copy.

- Should we require that the Summary Prospectus be given greater prominence than other materials that accompany the Summary Prospectus and that the Summary Prospectus not be bound together with any of those materials? Are any clarifications of these requirements needed? Are the requirements workable in all situations? Should we permit a Summary Prospectus to be included within a newspaper or magazine? Should we impose additional requirements to encourage the prominence and separateness of a Summary Prospectus, when provided in paper, at an Internet Web site, or by e-mail, such as requiring that the Summary Prospectus be at the top of a list of documents provided electronically or on top of a group of documents provided in paper?

Response: What is greater prominence? A bigger font? A different color? A legend saying: "Read this First"? I believe that a "greater prominence" requirement will only work within one document and not among several documents. I recommend that the SEC require that the legend on the other documents referring to the availability of the prospectus also refer to the Summary Prospectus. I believe requirements to encourage the prominence and separateness of the Summary Prospectus are not necessary since investors will make their own decision on what documents to read.

4. Content of Summary Prospectus

- Should the Summary Prospectus be required to include the same information as the summary section of the statutory prospectus in the same order as required in the statutory prospectus? Should any of the information that we propose to require in the Summary Prospectus not be required? Should any additional information, such as additional information from the statutory prospectus, SAI, or annual or semi-annual report, be required to be included in the Summary Prospectus?

Response: I think the issue is whether the summary section of the prospectus and the Summary Prospectus should include the same information. As stated previously, I do not believe that they should be the same.

I would include the following information in the Summary Prospectus (with changes from the prospectus summary, as noted):

- Investment Objectives
 - Investment Strategies
 - Performance: Bar Chart and Table (without portfolio turnover for the reasons stated above and with additional changes suggested above)
 - Fee Table (with same comments noted above)
 - Management (without sub-advisers or portfolio managers as this information is potentially too lengthy for the summary; also, there is the issue that, if portfolio manager information were included, portfolio manager changes may require supplements to the Summary Prospectus as they do for the prospectus)
 - Purchase and Sale of Fund Shares (no need to state that shares are redeemable; permit additional information)
 - Tax Information
- Should we, as proposed, prohibit the Summary Prospectus from including information that is not explicitly permitted? What effect would this prohibition have on the length, usability, and completeness of a Summary Prospectus? If we include this prohibition, should we make any exceptions to the prohibition?

Response: I believe funds should have some flexibility to add information if necessary to explain the required disclosures.

- Should we restrict the number of funds or share classes that may be included in a Summary Prospectus? Would including multiple funds in a Summary Prospectus make it too long and confusing, and would it decrease the likelihood that investors would use the Summary Prospectus? Or would including multiple funds in a Summary Prospectus contribute to investors' ability to compare those funds? Are there groups of funds that should be permitted to be included in a single Summary Prospectus even if we generally prohibit multiple fund Summary Prospectuses?

Response: As discussed above, I believe there should be no restriction on the numbers of funds or share classes included in the Summary Prospectus. Presenting groups of funds with similar investments would contribute to investors' ability to compare funds. Types of funds with integrated disclosures, such as life cycle funds, fund of funds or municipal bond funds, should be permitted to be included in a single prospectus even if the SEC determines to prohibit multiple fund Summary Prospectuses generally.

- Instead of, or in addition to, restricting the number of funds in a Summary Prospectus, should we impose page limits on Summary Prospectuses (*e.g.*, three or four pages)? If so, what should the page limits be? How would we address situations in which a fund may conclude that it cannot provide the information required in the Summary Prospectus within a prescribed page limit?

Response: As stated before, I believe page limits are an inflexible and inappropriate approach either for the summary in the prospectus or for the Summary Prospectus.

Page limits may adversely influence the disclosure of material information or even result in the omission of material information.

- Will a one-month lag in reporting top 10 portfolio holdings sufficiently protect against potential dangers to shareholders, such as the dangers of front-running? Would a shorter or longer delay be more appropriate?

Response: As noted above, I believe the top 10 holdings information is not appropriate information in the prospectus summary or in the Summary Prospectus.

- Summary Response to questions regarding updating of performance information in the Summary Prospectus.

Response: I believe that quarterly updating of the performance information (and top 10 holdings, if required in the summary) in the Summary Prospectus should not be required. Performance information is widely available, among other things, in fund advertisements and fund fact sheets, on fund websites and in newspapers and other publications. In light of the availability of this information, I do not believe the costs and burdens of quarterly updates of performance information are necessary or justified. I think the updating requirement will discourage the use of the Summary Prospectus. Another concern is the divergence of information provided to investors as the Summary Prospectus is updated and the prospectus is not. This divergence could raise liability issues as well as cause investor confusion. It would be impracticable for funds to update their prospectuses quarterly. These concerns are not apparent from experience with the Profile Prospectus since it was rarely used by funds. I support the alternative suggested by the SEC that would require funds to provide quarterly updated performance and portfolio holdings information on an Internet Web site and/or on a toll-free telephone line and to disclose the availability of the updated information in the Summary Prospectus. This approach is cost-effective and will readily provide investors with a source for this information in addition to other widely available sources.

5. Other Comments

- Form N-14 Conforming Requirements. The SEC has proposed conforming amendments to Form N-14 under the 1933 Act, which is used primarily to register shares to be issued in and to solicit proxies for merger transactions. Form N-14 sets forth the requirements for the prospectus/proxy statement to be used in merger transactions. The conforming amendments would add the proposed summary items in Form N-1A to the Form N-14 disclosure requirements. Form N-14, which was adopted in 1980, is long overdue for an update. Item 3 of Form N-14 currently requires a comparative fee table, comparative information about investment objectives and policies, distribution and purchase procedures and exchange rights, redemption procedures and other significant considerations. Item 3 also requires a discussion of tax consequences of the proposed transactions and comparative risk factor information. In light of the existing Form N-14 requirements, it is wholly unnecessary to add the proposed Form N-1A items to Form N-14. The conforming amendments would add unnecessary and

repetitive clutter to a prospectus/proxy statement. Funds currently struggle with the outdated Form N-14 requirements to attempt to provide shareholders with understandable disclosure about merger transactions. I urge the SEC to reconsider whether it is necessary to add the proposed Form N-1A requirements to Form N-14.

- Compliance Date: The SEC has proposed a compliance date of six months after the effective date of the proposed amendments for filings of all initial registration statements on Form N-1A and all post-effective amendments that are annual updates to effective registration statements. I believe that this is too short a period for funds to revise their disclosure in response to the proposed amendments. If a fund needed to file a Rule 485(a) filing because of changes to its prospectus, it would have to make the filing four months after the effective date and begin working on the filing approximately two months after the effective date. Even if no Rule 485(a) filing is required, six months is not an adequate period of time for funds to plan and draft summary prospectuses, revise, if necessary, their existing prospectus and make changes to their distribution systems to accommodate the Summary Prospectus. I recommend that SEC adopt a compliance date of at least one year after the effective date.

* * * * *

As I noted earlier, the SEC is to be commended for tackling fund disclosure issues and proposing a new offering document for funds. The Summary Prospectus has the possibility of benefiting fund investors and funds. However, the requirements for a Summary Prospectus need to be carefully considered to effectuate its successful use by funds. In addition, consideration should be given to disclosure in the prospectus because it will continue to be used by funds and available to investors. The prospectus should not become a less investor-friendly document.

Sincerely,

Kathleen K. Clarke