



G A O

Accountability \* Integrity \* Reliability

United States Government Accountability Office  
Washington, DC 20548

---

B-296101

March 28, 2005

The Honorable Richard C. Shelby  
Chairman

The Honorable Paul S. Sarbanes  
Ranking Minority Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Michael G. Oxley  
Chairman

The Honorable Barney Frank  
Ranking Minority Member  
Committee on Financial Services  
House of Representatives

Subject: *Securities and Exchange Commission: Mutual Fund Redemption Fees*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (SEC), entitled “Mutual Fund Redemption Fees” (RIN: 3235-AJ17). We received the rule on March 14, 2005. It was published in the Federal Register as a “final rule; request for additional comment” on March 18, 2005. 70 Fed. Reg. 13328.

The final rule permits registered open-end investment companies (funds) to impose a redemption fee of up to 2 percent on the redemption of fund shares. The rule is intended to allow funds to recoup some of the direct and indirect costs of frequent trading and to reduce the dilution of fund shares. The rule also requires that the fund, regardless of whether it imposes a redemption fee, enter into a written agreement with each of its intermediaries (such as broker-dealers or retirement plan administrators) under which the intermediaries must provide the fund, upon request, information about the identity of shareholders and information about their transactions in fund shares.

Enclosed is our assessment of the SEC’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that SEC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Thomas McCool, Managing Director, Financial Markets and Community Investment. Mr. McCool can be reached at (202) 512-8678.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Jill Peterson  
Assistant Secretary  
Securities and Exchange Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
SECURITIES AND EXCHANGE COMMISSION  
ENTITLED  
"MUTUAL FUND REDEMPTION FEES"  
(RIN: 3235-AJ17)

(i) Cost-benefit analysis

The SEC performed a cost-benefit analysis concerning the final rule and found that the aggregate cost to the funds to comply with the requirements is \$162 million and the annual ongoing operation and maintenance costs would be \$10,756,800. The cost to intermediaries of compliance is estimated at \$949.5 million with ongoing maintenance costs of \$379.8 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The SEC prepared a Final Regulatory Flexibility Analysis in connection with the final rule that complies with the requirements of the Act and discusses why the SEC does not believe the establishment of special compliance requirements or timetables for small entities is feasible or necessary.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the SEC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On March 11, 2004, the SEC published a Notice of Proposed Rulemaking in the Federal Register. 69 Fed. Reg. 11762. Nearly 400 comments were received in response to the proposal and are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The SEC has submitted the required information to OMB including the annual burden

estimate. The total annual cost of the new information collection requirements for all 7,950 respondents (1,620 funds + 6,330 intermediaries) was determined by calculating an average of the first year cost and the subsequent annual costs. Over the 3-year period, the SEC estimates the weighted average aggregate annual cost will be \$630,871,200.

#### Statutory authorization for the rule

The final rule is promulgated under the authority found in sections 6(c), 11(a), 22(c) and 38(a) of the Investment Company Act (15 U.S.C. 80a-6(c), 80a-11(a), 80a-22(c), and 80a-37(a)).

#### Executive Order No. 12866

As the rule is promulgated by an independent regulatory agency, it is not subject to the review requirements of the order.