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February 28, 2008

Via Electronic Submission

Ms. Nancy M. Morris  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-0609

Re: Enhanced Disclosure and New Prospectus Delivery Option for Registered  
Open-End Management Investment Companies; File No. S7-28-07

Dear Ms. Morris:

The Cornell Securities Law Clinic (the "Clinic") welcomes the opportunity to comment on the above-referenced rule proposal (the "Rule Proposal"). The Clinic is a Cornell Law School curricular offering in which second and third-year law students have the opportunity to provide representation of public investors and public education as to investment fraud in the largely rural "Southern Tier" region of upstate New York. See <http://securities.lawschool.cornell.edu>.

The Rule Proposal would require a summary section at the front of a mutual fund statutory prospectus, and would permit a person to satisfy the statutory prospectus delivery obligation by sending a Summary Prospectus ("Summary Prospectus") to investors and providing the statutory prospectus online. Both the summary section and Summary Prospectus are required to include the following information: Investment objectives; expenses; principal investment strategies, risks, and performance; top ten portfolio holdings; investment advisers and portfolio managers; brief purchase and sale and tax information; and financial intermediary compensation.

The Clinic generally supports the Rule Proposal. However, to fully achieve the goal of the Securities and Exchange Commission ("SEC") to provide investors with "user-friendly information that is key to an investment decision," the Clinic requests that the SEC require investment companies to include in the Summary Prospectus information as to a fund's asset allocation.

A. The Clinic Supports the Use of a Summary Prospectus to Enhance Investor Knowledge

Creating a Summary Prospectus will go a long way towards getting important information to investors and helping investors understand the information they receive. The evidence is clear that the current prospectus requirements are not providing investors with the information they need in order to make an informed mutual fund investment decision because investors are not reading the full prospectus. According to a survey by the Investment Company Institute (“ICI”), about 50% of recent fund investors said they do not read or read very little of the prospectus because prospectuses are too long and difficult to understand and more than 80% of investors said that concise information is more helpful than detailed information.<sup>1</sup> Moreover, 9 out of 10 investors prefer to receive a short summary either alone or coupled with a more detailed document.<sup>2</sup>

The Rule Proposal is based on a rule proposed 10 years ago which implemented the use of a profile prospectus for one year.<sup>3</sup> Although funds are still allowed to send a profile prospectus to investors<sup>4</sup>, most fund companies have been reluctant to take on the “additional cost and burden of sending two versions of the same report, and many have legal liability concerns that a shorter version could be accused of omitting facts.”<sup>5</sup> Nonetheless, results of the one-year trial period were extremely favorable. 70% of investors said they favored the content, format, and utility that the short summary provided and 61% of investors who did not use a prospectus in making their investment decision said they would use the profile prospectus.<sup>6</sup> Moreover, in September 2005, the Consumer Federation of America (the “Consumer Federation”) conducted a study revealing that while financial experts considered risks and expenses as two of the most important factors to be considered when making a mutual fund investment decision, only one-third of investors considered expenses important and only a quarter considered risks important.<sup>7</sup> Thus, by providing a Summary Prospectus, not only will more people be able to understand the Summary Prospectus and therefore utilize the information, but more people will actually look at the important information when making an investment decision.

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<sup>1</sup> INVESTMENT COMPANY INSTITUTE, UNDERSTANDING INVESTOR PREFERENCES FOR MUTUAL FUND INFORMATION (2006), available at [http://ici.org/pdf/rpt\\_06\\_inv\\_prefs\\_full.pdf](http://ici.org/pdf/rpt_06_inv_prefs_full.pdf)

<sup>2</sup> See *id.*

<sup>3</sup> INVESTMENT COMPANY INSTITUTE, MUTUAL FUND’S: INVESTING IN AMERICA’S FUTURE (May 21, 2006), available at [http://www.ici.org/statements/cmltr/96\\_sec\\_profile\\_prosp\\_com\\_cvr.html](http://www.ici.org/statements/cmltr/96_sec_profile_prosp_com_cvr.html)

<sup>4</sup> U.S. SECURITIES AND EXCHANGE COMMISSION, INVEST WISELY: AN INTRODUCTION TO MUTUAL FUNDS (2007), available at <http://www.sec.gov/investor/pubs/inwsmf.htm>

<sup>5</sup> John Morgan, *SEC Mulling Rule for Shorter Prospectus*, AMERICAN LAWYER, Nov. 16, 2007

<sup>6</sup> INVESTMENT COMPANY INSTITUTE, THE PROFILE PROSPECTUS: AN ASSESSMENT BY MUTUAL FUND SHAREHOLDERS (May 2006), available at [http://www.ici.org/shareholders/dec/rpt\\_profprspctus3.pdf](http://www.ici.org/shareholders/dec/rpt_profprspctus3.pdf)

<sup>7</sup> BARBARA ROPER AND STEPHEN BROBECK, MUTUAL FUND PURCHASE PRACTICES, available at [http://www.consumerfed.org/pdfs/mutual\\_fund\\_survey\\_report.pdf](http://www.consumerfed.org/pdfs/mutual_fund_survey_report.pdf)

Under the Rule Proposal, a fund can meet its delivery requirements by sending or giving the Summary Prospectus to investors and posting the full prospectus online. In addition, the fund would be required to send a statutory prospectus upon request. This delivery mechanism is designed to keep up with the advances in technology and the use of the internet. According to the Consumer Federation, age is the biggest variable in determining who would be willing to use the internet.<sup>8</sup> The younger the investor, the more willing that person would be to obtain information online.<sup>9</sup> Although it appears that older investors would be less likely to receive information from the internet, fund companies are required to provide an easy way for any investor to obtain a hard copy of the prospectus at no additional cost. On the Summary Prospectus, the fund must inform an investor that he/she can request a copy of the prospectus free of charge by calling a toll-free number or sending an e-mail. Moreover, as generations grow older, fewer and fewer people will likely request hard copies of the prospectus. Therefore, the SEC's proposal sufficiently takes into account investors needs and recent technological advances.

Despite the Clinic's support for the concept of a Summary Prospectus, the Clinic believes that in order to achieve the SEC's goal of enhanced disclosure of key information, the Summary Prospectus must include a fund's asset allocation information.

B. To Provide Investors with Key Information,  
the SEC Should Require Investment Companies  
to Provide Asset Allocation Information.

The Summary Prospectus would require a list of the fund's largest ten holdings with the percentage of net assets represented by each. However, the top ten holdings may be of limited use to an investor. The top ten holdings may comprise such a small percentage of the fund's overall holdings that it would provide the investor with little meaningful information on which to base an investment decision. Moreover, trading activity can rearrange a fund's top ten holdings, rendering the fund's published top ten outdated by the time the investor reads the Summary Prospectus. Although the top ten holdings may be of limited use, asset allocation information, which is not required in the Summary Prospectus, is critical to helping investors reach their financial goals.

Requiring investment companies to provide asset allocation information in the Summary Prospectus would further the SEC's goal of investor access to "key information that is important to an informed investment decision." See Rule Proposal p.12. A chart detailing the percentage of the fund's net assets in various asset classes will help investors understand the fund's risk exposure and volatility, two key elements in deciding which funds are appropriate for an investor given her risk appetite and time horizon.<sup>10</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> *See id.*

<sup>10</sup> See SECURITIES AND EXCHANGE COMMISSION, BEGINNERS' GUIDE TO ASSET ALLOCATION, DIVERSIFICATION, AND REBALANCING, <http://www.sec.gov/investor/pubs/assetallocation.htm> (last visited Feb. 27, 2008).

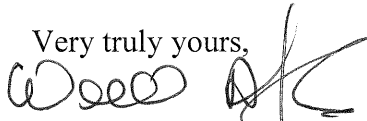
Further, asset allocation has a profound effect on whether an investor will meet her financial goals.<sup>11</sup> More than 90% of the variability of a portfolio's performance over time is due to asset allocation.<sup>12</sup> About 40% of the variation of returns across funds is explained by asset allocation policy.<sup>13</sup> Most financial experts agree that asset allocation is a key determinant of a fund's long-term rate of return.<sup>14</sup>

Although the Summary Prospectus permits an investment company to disclose the asset classes in which it invests,<sup>15</sup> the disclosure does not adequately convey the percentage of the fund's assets that are invested in each asset class— information that is critical to an investor attempting to balance returns with risk. Investment companies should be permitted to provide asset allocation information in a pie chart. Investors prefer this method to narrative form, indicating that graphs simplify disclosure, making the information easier to understand.<sup>16</sup>

### Conclusion

The Clinic greatly appreciates the opportunity to comment on this Rule Proposal. As set forth above, while the Clinic generally supports the Rule Proposal, the Clinic urges the SEC to require investment companies to provide a fund's asset allocation information in the Summary Prospectus.

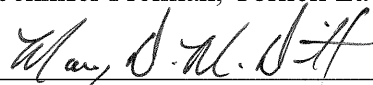
Very truly yours,



William A. Jacobson, Esq.  
Associate Clinical Professor  
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Jennifer Freiman, Cornell Law School, '08



Morgan McDevitt, Cornell Law School, '09

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<sup>11</sup> *Id.*

<sup>12</sup> Gary P. Brinson et al., *Determinants of Portfolio Performance*, FINANCIAL ANALYSTS JOURNAL, Jul/Aug 1986

<sup>13</sup> Roger G. Ibbotson and Paul D. Kaplan, *Does Asset Allocation Policy Explain 40%, 90%, or 100% Performance?*, 56 FINANCIAL ANALYSTS JOURNAL 26 (2000)

<sup>14</sup> See, e.g., Roger C. Gibson, ASSET ALLOCATION: BALANCING FINANCIAL RISK 3 (3<sup>rd</sup> ed. 2000).

<sup>15</sup> "Principal Investment Strategies: The Fund invests mainly in common stocks, bonds, and notes of U.S. and foreign companies." Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Securities Act Release No. 33-8861, Investment Company Act Release No. 28064, 72 Fed. Reg. 67,790, at 67,823 (proposed Nov. 30, 2007).

<sup>16</sup> INVESTMENT COMPANY INSTITUTE, UNDERSTANDING INVESTOR PREFERENCES FOR MUTUAL FUND INFORMATION 5 (2006), available at [http://ici.org/pdf/rpt\\_06\\_inv\\_prefs\\_full.pdf](http://ici.org/pdf/rpt_06_inv_prefs_full.pdf)