PSCA.org PROFIT SHARING/401k COUNCIL OF AMERICA
THE PROFIT SHARING AND 401(k) ADVOCATE ◆ SHARING THE COMMITMENT SINCE 1947
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April 21, 2006
submitted electronically

Nancy M. Morris, Secretary
Securities and Exchange Commission
Washington, DC

RE: File Number S7-06-06
Proposed amendments to redemption fee rule

Dear Ms. Morris,

The Profit Sharing/401(k) Council of America (PSCA) appreciates this opportunity to comment on the Commission's March 7, 2006, proposed amendments to the final rule on redemption fees that was adopted on March 11, 2005.

The Profit Sharing/401(k) Council of America (PSCA) is a non-profit national association of employers who sponsor defined contribution retirement plans for their workers. For over fifty-five years, PSCA has identified and shared best practices with its members, represented their interests in Washington, and provided analysis and reportage on the latest regulatory changes. PSCA members range in size from very small independent businesses to firms with hundreds of thousands of employees. Our members believe that profit sharing, 401(k), and related savings and incentive programs strengthen the free-enterprise system, empower and motivate the workforce, improve domestic and international competitiveness, and provide a vital source of retirement income.

While we appreciate that the proposed amendments are intended to improve the final rule, a review of the comments already filed quickly reveals that numerous problems remain to be solved. The comments range from almost unqualified support to allegations that the proposed changes merely transfer the cost and burden of compliance from mutual funds to first-tier financial intermediaries. Regardless of which opinion is correct, the underlying and long-standing belief of PSCA is that the final rule and the proposed amendments will impose cost, complexity, and compliance issues that are, in the final analysis, detrimental to the employer-provided retirement plan system. PSCA urges the Commission to reexamine the impact of the rule on retirement plans, especially with respect to the problem it is designed to address.

PSCA has previously commented on this issue. We believe our comments remain applicable today. On May 10, 2004, PSCA commented that the proposed rule on redemption fees was premature because the Commission had failed to reinvigorate and enforce an effective fair value pricing requirement. We argued that a redemption fee rule should permit funds, intermediaries, and retirement plan sponsors to work collaboratively on alternative measures to address any market timing problems. We urged the Commission to conduct a cost-benefit analysis before issuing a final rule. Neither the final rule nor the proposed amendments address our concerns.

On May 9, 2005, PSCA commented on the final rule that includes requests for recommendations on many unresolved issues. We urged the Commission to adopt a uniform redemption fee standard; to adopt a FIFO and a de minimis rule; and to restrict the application of redemption fees to participant-directed transactions. We are disappointed that the Commission has not acted on these requests. We trust that it will do so before the effective date of any final rule. The delay on acting on these outstanding issues is another reason, in addition to those already offered by several commenters, to significantly extend the October 16, 2006, effective date of the final rule.

We remain concerned that the Commission is not fully sensitive to the fiduciary, operational, and regulatory complexity surrounding tax-qualified employer-provided retirement plans. For example, the proposed requirement to forbid an indirect intermediary from further purchases of securities issued by a fund, if instructed to do so by the fund, raises significant questions under ERISA.

While the Commission is far along on this issue, the comments received to date suggest that it is not too late to totally reconsider the costs and benefits of any effort to address market timing issues in the employer-provided retirement plan system.

Thank you again for this opportunity to share our concerns with the Commission. If you have any questions, or if I can be of any assistance, please do not hesitate to call me at 312-419-1863.

Sincerely,

David L. Wray
President