American Federation of Labor and Congress of Industrial Organizations



815 Sixteenth Street, N.W. Washington, D.C. 20006 (202) 637-5000 www.aflcio.org

JOHN J. SWEENEY PRESIDENT

Gerald W. McEntee Patricia Friend Robert A. Scardelletti Harold Schaitberger Cecil Roberts Edward J. McElroy Jr. Baxter M. Atkinson Vincent Giblin Warren George Robbie Sparks Alan Rosenberg

EXECUTIVE COUNCIL

RICHARD L. TRUMKA SECRETARY-TREASURER

Gene Upshaw

Michael Sacco Michael Goodwin William Lucy R. Thomas Buffenbarger Elizabeth Bunn Edwin D. Hill Joseph J. Hunt Edward C. Sullivan William Burrus Ron Gettelfinger James Williams John Gage William H. Young William Hite Andrea E. Brooks Gregory J. Junemann Laura Rico Nancy Wohlforth Paul C. Thompson Capt. John Prater Rose Ann DeMoro

Frank Hurt Leon Lynch Michael J. Sullivan Clyde Rivers Leo W. Gerard John J. Flynn Nat LaCour Larry Cohen Thomas C. Short

James C. Little

ARLENE HOLT BAKER

EXECUTIVE VICE PRESIDENT

September 5, 2008

Via Electronic Mail

Ms. Florence E. Harmon, Acting Secretary U.S. Securities and Exchange Commission 100 F Street, N.E. Washington, DC 20549-1090

Re: Proposed Rules Regarding References to Ratings of NRSROs, Investment Company Act Release

No. 28327, File No. S7-19-08

Dear Ms. Harmon:

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) opposes the Commission's proposed rule to eliminate references of Nationally Recognized Statistical Rating Organizations (NRSROs) in Rule 2a-7 under the Investment Company Act of 1940. The elimination of rating requirements for investments made in money market funds as described in Release No. 28327 would markedly decrease, not increase, investor confidence in these funds and would increase, not decrease, the risk of a future credit crisis.

With \$3.5 trillion in assets, money market funds are a tremendously important part of our financial system. Businesses and government entities rely on the short-term credit they supply and investors, including the pension plans that are invested on behalf of union members, rely on them as a stable and liquid investment option. While they perform some of the important functions that banks alone once performed, investments in them are not safeguarded through a federal insurance program as most deposits in banks are. The Commission rightly saw the need to create a set of regulations (Rule 2a-7) specifically for money market funds that gives investors confidence that their investments will not lose value. The regulations have proven very successful over the past quarter century.

In addition to maturity limitations and other parameters placed on money market fund investments, Rule 2a-7 sets out two credit quality tests for any asset that is to be held by a fund. To pass the first test a rated security must have one of the top two ratings from the "requisite NRSROs"; an unrated security must be of similar quality. Once a security has passed this test, it next has to pass a second credit analysis test applied by the fund itself. The board needs to determine or have the fund's investment adviser determine that the investment involves "minimal credit risk." The combination of the third-party objective test obtained through the NRSROs' rating requirements with the internal, more-subjective test applied by the fund itself gives the money market funds industry the characteristics it needs: a high baseline standard that demarcates how funds can compete. Investors can search for funds that have superior performance with the confidence that an objective standard is in force at all funds.

Letter to Florence E. Harmon September 5, 2008 Page Two

When implemented fully, the use of rating requirements does not lead to a fund's abrogation of its responsibility but rather serves as an additional screen that fortifies an essential part of the financial system.

It may be true that the credit market crisis has revealed significant shortcomings in the NRSROs' rating methods. We commend the Commission for seeking to determine how these methods can be improved. In particular, the Commission's other rule making initiatives relating to NRSROs would increase the value to investors of ratings by increasing their transparency, eliminating conflicts of interest in their formation and creating new ratings that reflect the complexity of some investments.

But the Commission's concern that the money market funds have come to place "undue reliance" on NRSROs is misguided. If some funds have come to rely on only one of the credit quality tests required in Rule 2a-7, the solution is to enforce, and strengthen if necessary, the use of the other test. Nothing is gained by eliminating one of the tests altogether. Rule 2a-7 already specifies that a fund must not rely exclusively on ratings when deciding what investments to make. We, therefore, respectfully suggest to the Commission that the real solution lies in strengthening both parts of the test instead of weakening one in the hope that the other one will thereby be strengthened. The Commission has taken steps to improve the NRSROs' ratings. It should also consider ensuring that a fund's internal test requirement is fulfilled in a meaningful way.

It is not an exaggeration to suggest that the elimination of the ratings requirements as contemplated may accomplish the exact opposite of what the Commission intends. The market dynamic that would likely arise with the elimination of a third-party rating requirement is predictable and has been observed time and again in other arenas. To grow assets under management, certain funds will chase yields by taking on more credit risk at the margins. As a result, there will be greater inconsistency in credit quality among funds. Some investors for a time may not be concerned with or aware of the increased risk that has boosted the return on their investments. In other words, they may assume that the money market funds industry is well regulated. When a fund then inevitably "breaks the buck," confidence in the whole system may dissipate, freezing credit throughout the economy. To avoid this scenario and the significant harm it would do to the 'real' economy, it is prudent to maintain the objective ratings requirement.

Regulation of the money market funds has been a clear success. There may be room for improvement but significant change is not necessary. For this reason, we strongly oppose removing references to NRSROs from Rule 2a-7.

We appreciate the opportunity to comment on this proposal. If the AFL-CIO can be of further assistance, please do not hesitate to contact me at (202) 637-5379.

Sincerely,

Daniel F. Pedrotty

M. F. Penroly

Director

Office of Investment

Letter to Florence E. Harmon September 5, 2008 Page Three

cc: Honorable Christopher Cox, Chairman

Honorable Kathleen L. Casey, Commissioner Honorable Elisse B. Walter, Commissioner Honorable Luis A. Aguilar, Commissioner Honorable Troy A. Paredes, Commissioner

Andrew J. Donohue, Director, Division of Investment Management Robert E. Plaze, Associate Director, Division of Investment Management

Erik R. Sirri, Director, Division of Market Regulation