CMFI
Coalition of Mutual Fund Investors

May 10, 2004

Mr. Jonathan G. Katz
Secretary
U.S. Securities and Exchange Commission
450 Fifth Street, NW
Washington, D.C. 20549

VIA ELECTRONIC MAIL

Subject: Proposed Rule: Mandatory Redemption Fees for Redeemable Fund Securities/File No. S7-11-04

Dear Mr. Katz:

The Coalition of Mutual Fund Investors ("CMFI" or "Coalition") is pleased to submit the following comments regarding a new rule proposed by the Securities and Exchange Commission ("SEC" or "Commission") on March 2, 2004. This proposed rule requires mutual funds to impose a two percent (2%) redemption fee on the redemption of shares purchased within the previous five (5) business days.

CMFI is an Internet-based shareholder advocacy organization representing the interests of individual mutual fund investors. The Coalition is based in Washington, D.C., with a Web site that can be accessed at www.investorscoalition.com.

1. A Mandatory Redemption Fee is a Necessary Tool to Help Mutual Funds Combat Market Timing Abuses.

CMFI strongly supports the use of a mandatory two percent (2%) redemption fee as a mechanism to deter abusive short-term trading activities.

Excessive trading is harmful to the interests of long-term shareholders in a mutual fund. Short-term profits taken by market timers increase fund transaction costs and dilute the value of the shares owned by long-term shareholders. Abnormal redemption levels also force fund managers to have larger cash balances in a fund, a situation which limits the ability of a fund to be fully invested.

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When used by a mutual fund, redemption fees have proven to be a successful tool to discourage short-term trading. If the fee is large enough, it can reduce or eliminate the economic incentives of market timing. Redemption fees also provide a mechanism for long-term shareholders to be compensated for the dilutive effects of this type of trading activity.

Advocated by the Investment Company Institute and other industry opinion leaders, a mandatory fee for redemptions within five (5) business days provides a uniform method for addressing an issue that has evolved into a significant problem for many mutual funds.

Except for those funds which clearly disclose an intent to engage in short- term trading as a fundamental investment strategy, all mutual funds and their long-term shareholders will benefit from the protections provided by a mandatory redemption fee.

2. The SEC Should Authorize Mutual Funds to Have the Option to Impose Redemption Fees Higher Than Two Percent

CMFI believes that mutual funds should be provided with the discretionary authority to establish a redemption fee at a higher level than two percent (2%). In the explanatory materials accompanying the rulemaking proposal, the SEC staff notes that the two percent (2%) fee was an attempt to strike a balance between two competing policy goals of the Commission: (1) "preserving the redeemability of mutual fund shares" and (2) "reducing or eliminating the ability of shareholders who frequently trade their shares to profit at the expense of their fellow shareholders." 69 Fed. Reg. 11,762, 11,764 (March 11, 2004).

The Commission staff acknowledge that a redemption fee higher than two percent (2%) may be more effective at eliminating rapid trading. However, the Commission is concerned that a higher fee would be harmful to those investors who may need to redeem shares to meet a financial emergency.

In CMFI's view, the need to address market timing is a far more important policy goal than the more narrow circumstances of a financial emergency by an individual investor within the proposed five-day holding period. For this reason, CMFI believes that the Commission should authorize funds to have the option to impose a higher redemption fee than the two percent (2%) minimum, if a fund board decides that such a fee structure is in the best interests of the long-term shareholders of the fund.

3. The Required Accounting Method Used for the Redemption Fee Should Be LIFO Instead of FIFO

Under the Commission's proposal, funds would determine the amount of the redemption fee by used the accounting method known as "first in, first out" or FIFO. Apparently, this accounting treatment is the method most often used within the fund industry for this purpose.

Under FIFO, fund shares held the longest time are treated as being redeemed first, and shares held the shortest time are treated as being redeemed last.

While the FIFO method would trigger redemption fees based on short-term activity involving a large portion of an individual account, a market timer could circumvent this accounting method by creating a timing "ladder" or "tranche." Under this structure, a market timer could rapidly trade smaller and defined portions of a larger account balance, leaving an equal amount of shares untouched in the fund to avoid triggering a redemption fee. Ironically, this approach would operate in a similar fashion to some of the market timing transactions uncovered by industry regulators: a significant sum is invested in a fund as a "sticky asset," while other monies are permitted to be used for market timing activities.

The use of FIFO would still permit market timers to rapidly trade fund shares as long as a "sticky asset" balance of a certain amount is maintained to avoid a redemption fee.

A better solution to this problem is to use an accounting method known as "last in, first out" or LIFO. Under LIFO, fund shares held the shortest time are treated as being redeemed first, and shares held the longest time are treated as being redeemed last.

Market timing in its most basic form involves a "round-trip" trade (i.e., a purchase and a redemption) within a short period of time. The only way to effectively discourage this rapid trading activity is to use an accounting method which best addresses the underlying market timing transaction. The only accounting method which accomplishes this objective is LIFO because it matches the most recent transactions with each other. Clearly, this is the accounting method which a fund should use to impose its redemption fee.

The Commission notes in Footnote #33 of its explanatory materials that market timers using omnibus accounts may be able to circumvent a redemption fee based on a LIFO accounting method by using multiple accounts. CMFI believes that this issue can be addressed effectively with the Commission's proposal to require regular intermediary disclosure of an account holder's Taxpayer Identification Number (TIN) and transaction information, permitting a fund to match transactions with the same TIN.

Another mechanism for ensuring that multiple accounts are not used to circumvent redemption fees would be to require intermediary disclosure of the name and address of each omnibus account holder. This disclosure would reduce the number of instances in which different accounts are used for market timing purposes. A husband and wife living together with separate accounts, for example, would find it more difficult to avoid a redemption fee by executing a purchase in one account and a redemption in a second account. Intermediary disclosure of the names and addresses of all omnibus account holders would provide funds with an additional tool to deter the use of multiple accounts for market timing purposes. See National Association of Securities Dealers, Report of the Omnibus Account Task Force, at 5, January 30, 2004, available at http://www.nasd.com/pdf_text/omnibus_report.pdf.

4. The De Minimis Threshold for the Redemption Fee Should Be Higher

CMFI agrees with the Commission that any mandatory redemption fee should have a de minimis exception for small accounts. In its rulemaking proposal, the Commission proposed that the redemption fee not be imposed if the amount of the shares redeemed is $2,500 or less. This would result in a redemption fee being waived or excepted if it is $50 or less ($2,500 multiplied by 2%).

The Commission's rationale for the de minimis exception is two-fold: (1) to avoid any adverse impact on small investors; and 2) to avoid having the cost of collecting a redemption fee exceed the actual amount of the fee.

To ensure that this redemption fee does not harm smaller investors--and especially those investors with automatic investment and/or rebalancing plans--CMFI recommends that the Commission consider a higher de minimis threshold. No de minimis amount will be a perfect solution for all small investors, but CMFI will support a $10,000 threshold--the same level that the Commission proposes as the maximum amount for the financial emergency waiver.

In calculating and imposing the redemption fee, CMFI believes that there may be several different scenarios in which gross redemption proceeds will contain mutual fund shares that are not subject to the fee. For this reason, the Commission may want to consider having the de minimis threshold be based on the *dollar amount of the actual redemption fee to be imposed*, instead of the gross proceeds from a shareholder's redemption. In other words, it may be simpler to permit a fund to waive a redemption fee of $50 or less, instead of waiving fees on all redemption amounts under $2,500. (If the de minimis threshold were increased to $10,000, this recommendation would permit a fund to waive a redemption fee that is $200 or less.)

To illustrate this point, consider a systematic investor in a 401(k) retirement plan who chooses to invest $100 into a particular mutual fund on a bi-monthly basis. This same investor also has a periodic rebalancing strategy. The account has a balance of $60,000 and a periodic rebalancing causes a $12,000 redemption within five (5) days of one of the investor's regular $100 purchases. Using a LIFO accounting method, the investor has had a purchase of $100, followed by a redemption of $12,000, both within the five-day holding period. The investor does not appear to meet the de minimis threshold, whether it is set at $2,500 or $10,000. After appropriate calculations are made, a redemption fee would be assessed on $100 of the redemption proceeds, resulting in a fee of $2. Obviously a fee of this size should be subject to the de minimis rule and waived. However, it will be easier to determine if the fee qualifies for a de minimis waiver if the fee becomes the focus of the analysis instead of the gross redemption proceeds.

Some may argue that a fee-based threshold is more burdensome for any individual investor attempting to calculate the amount of the fee for a specific redemption transaction. It appears to make more sense, however, to calculate the actual redemption fee owed and then apply a de minimis threshold, in contrast to calculating the fee and then looking back to determine if the gross proceeds qualify for a redemption fee waiver.

5. <u>The Commission Should Modify the Financial Hardship Waiver</u>

The Commission proposes to require a waiver of the redemption fee in the case of an unanticipated financial or family emergency, upon the request of the shareholder.

The Commission's proposal of a five-day holding period should reduce the risk of this type of hardship occurring. It is hard to imagine a situation in which an investor purchases mutual fund shares and then, within a five-day holding period, needs to redeem those same shares for a financial emergency. It would be an unusual case where the investor could not wait until the sixth day to redeem his or her shares, avoid the redemption fee, and then receive the proceeds through the normal processing timetables of the fund or its intermediary.

CMFI does not believe that this waiver is necessary at all if the Commission imposes a five-day holding period. If, for some reason, the Commission decides to impose a longer minimum holding period, then CMFI supports a financial emergency waiver as long as: (1) it applies to redemption fees of $200 or less, and (2) is discretionary on the part of the fund. The conditions for receiving the waiver should be clearly disclosed in a fund's prospectus.

6. The Commission Should Require Intermediary Disclosure of Omnibus Account Information on a "Same-Day" Basis

As the Commission notes in its explanatory materials, regulatory investigations of market timing activities have uncovered a number of instances in which the individuals and entities involved sought to conceal their transactions from a mutual fund through omnibus accounts used by financial intermediaries. Under this practice, a mutual fund records only one accountholder in its master shareholder file, usually the financial intermediary itself, instead of establishing separate accounts for each shareholder. These omnibus accounts may have hundreds of thousands of shareholders, all recorded as one shareholder in the accounts of the mutual fund.

The Investment Company Act requires that investment companies be operated in the "interest of *all classes* of such companies' security holders." 15 U.S.C. §80a-1(b)(2) (emphasis added). It is also the fund board's fiduciary duty to treat all shareholders evenly and fairly. Unfortunately, it is impossible for fund boards to ensure the equal and fair treatment of all shareholders under a sales and distribution system where there are really two sets of shareholders: (1) the "direct purchase" shareholders; and (2) the "omnibus account" shareholders.

CMFI believes that a mutual fund cannot effectively monitor the activities of omnibus shareholders, or properly enforce its policies and procedures with respect to these shareholders. The current practice of relying on contractual commitments by fund intermediaries to require those same intermediaries to enforce a fund's rules is highly suspect as a solution because it is not in the economic interest of an intermediary to enforce mutual fund rules on its customers.

The use of different intermediaries to sell mutual fund products and the proliferation of fund record keepers also have created an industry accounting structure dominated by the needs of the fund distribution system. After decades of earning a reputation for innovation and trustworthiness, mutual funds are now facing the stark reality that further progress by the industry may be constrained by the economic interests of fund distributors and the antiquated record-keeping systems operated by intermediaries. As mutual fund record-keepers continue to expand and multiply, funds are not able to fully differentiate their products and services, and industry regulators are forced to develop "one size fits all" solutions, to accommodate the least sophisticated accounting systems of broker-dealers and other intermediaries.

To address this bifurcated structure of "omnibus" and "direct" shareholder classes, CMFI has proposed to the Commission that financial intermediaries be required to disclose shareholder identity and transaction information to mutual funds on a daily or transactional basis, so that each fund can monitor shareholder activity and be in a position to ensure the uniform application of its policies and procedures. See Letter from Niels Holch, Executive Director, Coalition of Mutual Fund Investors, to William H. Donaldson, Chairman, U.S. Securities & Exchange Commission, December 12, 2003, available at http://www.investorscoalition.com/regulatory.htm.

This proposal is not an attempt to provide mutual funds with access to the customers of fund intermediaries. To avoid that result, protections will need to be in place to ensure that this information is used for compliance activities only and not for any marketing or customer relationship purpose. In Footnote #47 of its explanatory materials, the Commission notes that non-public personal information shared with a fund by its intermediaries is protected by the intermediary's privacy policies under current Commission regulations. See 69 Fed. Reg. 11, 762, 11, 766 (March 11, 2004), citing 17 C.F.R. § 248.11(a) and 17 C.F.R. § 248.15(a)(7)(i).

The mechanics of implementing the Commission's proposed mandatory redemption fee provide an excellent "case study" of the difficulties presented when a mutual fund does not have adequate information about the underlying shareholders located within an omnibus account umbrella.

Proper application of the mandatory redemption fee is the legal obligation of both the mutual fund and its intermediaries, although the parties differ in their respective economic interests. It is in the mutual fund's economic interest to correctly calculate the redemption fee because these monies are the property of the fund and its shareholders, to help compensate for the results of abusive, short-term trading. On the other hand, a fund intermediary is often being compensated for trading activity in a mutual fund account; and an intermediary is a direct beneficiary of any system that does not calculate redemption fees properly.

The contrast in the economic interests of the parties is also present in the calculation of volume or “breakpoint” discounts to shareholders who are charged a sales load for their purchases of mutual fund shares. A mutual fund wants to correctly calculate a breakpoint discount in order to avoid losing unnecessary investment monies to third party brokerage commissions. On the other side of the transaction, a fund intermediary is the direct beneficiary of an overcharge of sales commissions because it receives these amounts as additional commissions.

For all of these reasons, CMFI strongly supports the Commission’s proposal to require a fund intermediary to provide each mutual fund with omnibus shareholder identity and transaction information. The information required to be provided in this manner would include the Taxpayer Identification Number (TIN) and the amount and dates of all purchases, redemptions, or exchanges for each shareholder within an omnibus account during the previous week.

CMFI also agrees with the Commission in its rationale for this requirement. The provision of this information will: (1) help each mutual fund ensure intermediary compliance with the assessment of redemption fees; (2) provide an additional mechanism to detect market timers; and (3) assist each fund with compliance in applying its breakpoint discount policies. Additionally, this proposal will permit a fund to validate the accuracy of sales loads, commissions and fees, contingent deferred sales charges (CDSC), and dividend reinvestments.

While the SEC’s proposal to require *weekly* intermediary disclosure is a strong step in the right direction for both fund boards and all classes of shareholders, CMFI continues to advocate that the provision of this information from each intermediary should occur on a *same-day basis*.

The mutual fund industry is operated and managed on a daily basis, with fund shares being priced once a day, usually on or after the close of the major U.S. stock exchanges at 4:00 P.M., Eastern Standard Time. Purchases, redemptions, and exchanges are made on a transactional basis; certain events, such as the pricing of fund shares and the application of “breakpoint” sales load discounts, occur at the end of each trading day.

CMFI believes that it will impose unnecessary financial and accounting burdens on funds and their intermediaries to introduce a weekly compliance protocol--as opposed to disclosure on a same-day basis--into a processing system that is now functioning on a daily basis. It will be complicated for mutual funds to create and manage software programs and reconciliation procedures on a weekly basis; it is simpler and more cost-effective to incorporate this intermediary compliance function into the daily fund systems which are already in operation.

Intermediary disclosure that is not on a same-day basis will produce a number of after-the-fact transactions (called "as of" transactions in the industry), as mutual funds process five days of omnibus account data each week through accounting systems which are used to operating on a same-day basis. This will require each fund to continue to operate its systems each day, but then, once a week, re-run its daily shareholder transactions file again for each day of omnibus account data. To an outside observer, this seems duplicative and overly burdensome.

In addition to the obvious systems processing issues, a weekly compliance procedure is going to result in the imposition of retroactive redemption fees, something that should not be permitted to occur.

To illustrate this point, consider the interrelationship among three time variables: (1) the industry's transaction settlement timetable of trade date +1 day ("T+1"); (2) the five-day minimum holding period for the mandatory redemption fee; and (3) the SEC-proposed weekly intermediary disclosure requirement. In a significant number of transactions, a mutual fund is not going to be able to ensure the timely imposition of the two percent (2%) fee once a compliance problem is discovered. For example, a timer can purchase shares on a Monday and redeem these shares on Wednesday of the same week, with a settlement of his or her redemption occurring on Thursday. It will not be until the *following week* that a fund is in a position to know that an intermediary has failed to impose the redemption fee, after the weekly disclosure of an omnibus shareholder's TIN and transaction information.

With only weekly disclosure, a fund will, in many cases, be forced to impose a redemption fee retroactively once it learns that an intermediary has failed to do so. This is not a very investor-friendly action for either the fund or its intermediaries. Equally troubling is the fact that funds will be forced to impose retroactive fees on those institutions selected to distribute its funds. Finally, and most disturbing, is the strong possibility that the market timer has closed out the account altogether, leaving the fund with no ability to impose the redemption fee at all unless an intermediary agrees to indemnify the funds for this purpose.

This process will result in too many after-the-fact redemption fees, and it forces the industry to integrate a weekly compliance protocol and reconciliation into processing systems which operate on a daily basis. A better approach is to have omnibus account disclosure information being processed at the same time, and on the same basis, as the underlying transactions themselves.

CMFI believes that same-day disclosure by fund intermediaries will ensure that redemption fees are imposed properly and not retroactively. CMFI also believes that this goal can be accomplished with the technology that is currently available to all of the parties. For example, the Fund/SERV, Networking, and Defined Contribution Clearance & Settlement processing platforms operated by the National Securities Clearing Corporation (NSCC) permit transaction data to be provided in a standardized, same-day basis between mutual funds and their intermediaries. This technology provides a cost-effective mechanism for funds to monitor intermediary compliance with the mandatory redemption fee, as well as other fund policies and procedures.

7. The Intermediary Disclosure Rules Should Not Imposes Costs As High as the Commission's Estimates

CMFI does not believe that the Commission's intermediary disclosure requirements will be as expensive to implement as the Commission has estimated because of the technology that is available to make these disclosures in a timely manner. *For these reasons, it is CMFI's view that same-day disclosure of omnibus information should be more cost-effective to implement than a weekly disclosure requirement*.

As noted above, the best example of this capability is the processing platforms operated by the NSCC. According to its Web site, NSCC is a central counterparty, providing clearance, settlement and information services for "virtually all broker-to-broker equity, corporate bond and municipal bond, exchange-traded funds and unit investment trusts in the U.S." National Securities Clearing Corporation, Welcome to the National Securities Clearing Corporation, at http://www.nscc.com. NSCC is registered with the Commission as a clearing agency, and is a wholly-owned subsidiary of The Depositary Trust & Clearing Corporation (DTCC). National Securities Clearing Corporation, 2003 Annual Financial Statements, February 13, 2004, available at http://www.dtcc.com/aboutus/nscc%202003%20financials.pdf.

At present, NSCC is the only registered clearing agency providing services to the mutual fund industry. See Ann E. Bergin, Managing Director, National Securities Clearing Corporation, Statement before the Committee on Banking, Housing and Urban Affairs, March 2, 2004, available at http://www.banking.senate.gov/_files/bergin.pdf. Owned and managed by the financial services industry, NSCC serves as "the leading processor of mutual fund transactions between mutual funds and [its] distribution channels, which include brokers, banks and financial planners. NSCC's entry into this area began in the mid-1980's, when the mutual fund industry was searching for a way to centralize, standardize and reduce the costs linking to distributors." National Securities Clearing Corporation, Distribution Services Overview, at http://www.nscc.com/distservices.html.

The NSCC's best known processing platform is called Fund/SERV. In operation since 1986, Fund/SERV provides an automated and standardized system to process mutual fund transactions between funds and their intermediaries. In 2002, NSCC Fund/SERV processed 83 million transactions with a total value of $1.6 trillion, at a processing cost of only 17.5 cents per transaction. Depository Trust & Clearing Corporation, 2002 Annual Review, available at http://www.dtcc.com/aboutus/2002annual/mf_fundserv.html. A Web site review of the membership of both the Investment Company Institute and the NSCC indicates that more than fifty percent (50%) of the Institute's fund members are participants in Fund/SERV. See http://www.ici.org/funds/mem/list-open-end.html (updated March 2004) and http://www.nscc.com/directory/fundserv.pdf (updated April 2, 2004).

According to material presented on the NSCC Web site, the Fund/SERV service works as follows:

> With Fund/SERV, NSCC acts as a communications hub, receiving and distributing transaction and account registration information through computers, rather than on paper. Firms send their orders directly to NSCC either through CPU-to-CPU links or personal computer hookups. NSCC reviews the order requests, and then electronically forwards them to the appropriate mutual fund distributors for processing. Both parties are given the opportunity to make corrections over the system, making additional paperwork unnecessary.
>
> Once the fund distributor send an electronic message to NSCC confirming acceptance of the order, NSCC relays that confirmation to the financial institution and proceeds to settle the accounts of both parties. The entire process can be completed on the same day, next day, or in whatever cycle is appropriate for the fund.

> Since Fund/SERV began operating in 1986, manual processing of mutual fund transactions has been greatly reduced. Today, nearly 90 percent of all electronic and wire orders received by participating mutual fund companies are transmitted via the Fund/SERV system.

National Securities Clearing Corporation, NSCC Mutual Funds Brochure, available at http://www.dtcc.com/publications/mutual/fs_fundserv.html.

Since 1988, NSCC also has been offering a centralized record-keeping service called Networking, where mutual funds and their intermediaries can share and reconcile shareholder account information. As of the end of 2002, more than 870 financial institutions were participating in the Networking service. Depository Trust & Clearing Corporation, 2002 Annual Review, available at http://www.dtcc.com/aboutus/2002annual/mf_fundserv.html.

On its Web site, NSCC describes the Networking centralized processing platform as follows:

> Networking is used by banks, brokers, dealers, trusts, third-party administrators (TPAs) and other financial services firms seeking a more accurate, timely and flexible means of monitoring their clients' mutual fund assets.
>
> Before Networking, there was no standard, automated method by which financial firms could receive non-trade related information about their clients' mutual fund accounts. Those who wished to monitor these activities to provide better asset management advice to their customers had to create their own sophisticated sub-accounting systems or obtain information from funds in a largely manual, paper-intensive process. These efforts were costly and cumbersome. Sub-accounting activities were duplicated, and discrepancies occurred between fund and firm client statements from the use of different sub-accounting methods, often resulting in the distribution to customers of untimely and sometimes inaccurate information.
>
> In 1988, with the industry seeking a more efficient and reliable method for monitoring client activity and share [sic] reporting responsibilities, NSCC introduced Networking.
>
> Networking allows identical account records to appear at both the mutual fund and the firm. The fund maintains the individual account information,

> giving the firm access to this information directly from the fund's record-keeping system.
>
> Once in Networking, funds and firms can exchange account updates. Firms can update information such as address and dividend option changes, and receive confirmations of these transactions from the funds.

National Securities Clearing Corporation, NSCC Mutual Funds Brochure, available at http://www.dtcc.com/publications/mutual/fs_network.html.

Through this service, NSCC Networking provides a standardized and automated process to report and reconcile shareholder account information between a fund and its intermediaries, using the existing record-keeping systems of its individual mutual fund participants.

NSCC Networking also permits five (5) levels of reporting (Levels 0, 1, 2, 3 and 4), providing mutual funds and its intermediaries with several options for allocating shareholder account responsibilities, such as trade confirmations, distribution of account statements, and tax reporting. Id. An intermediary can continue to control its accounts and manage customer relationships, within a standardized environment which utilizes a mutual fund's own record-keeping system.

A number of mutual fund industry experts have examined the issue of omnibus accounts and a consensus appears to be forming that the NSCC Networking system provides a simplified alternative to omnibus account processing. On January 30, 2004, a working group of technology experts convened by the National Association of Securities Dealers (NASD) issued a report and recommendations for the imposition of a mandatory redemption fee in omnibus accounts managed by fund intermediaries.

In this report, several of the experts acknowledged that the NSCC Networking platform provides a cost-effective mechanism for intermediary disclosure of TINs and transaction information in omnibus accounts:

> Some large fund transfer agents have software (currently used to enhance breakpoint discounts by identifying account linkage opportunities) that might be modified to facilitate matching of purchases and redemptions. Broker-dealers using National Securities Clearing Corporation (NSCC) Networking Level 4 (one of the most widely used Networking Levels), as a general matter, already transmit TINs to fund transfer agents. It also appears that broker-dealers using other Networking Levels could transmit

> TINs to fund transfer agents without incurring significant costs. One Task Force member already includes TINs for all orders transmitted through Networking, on a transaction-by-transaction basis, including Networking Level 3.

National Association of Securities Dealers, Report of the Omnibus Account Task Force, at 7 n.6, January 30, 2004, available at http://www.nasd.com/pdf_text/omnibus_report.pdf.

The NSCC processing systems also service intermediaries that manage defined contribution retirement plans, including 401(k) and 403(b) plans. Through its Defined Contribution Clearance and Settlement service, NSCC offers order processing, settlement, and account reporting and reconciliation for defined contribution retirement plans. National Securities Clearing Corporation, NSCC Mutual Funds Brochure, available at http://www.dtcc.com/publications/mutual/fs_dccs.html. This platform provides the same processing services for retirement plans as the NSCC Fund/SERV and Networking programs described above. More than 26 million transactions were processed by this defined contribution service in 2003. Depository Trust & Clearing Corporation, DTCC Settles $923 Trillion in 2003 on Record Volumes, March 10, 2004, available at http://www.dtcc.com/pressroom/2004/earnings.html.

CMFI believes that the NSCC technology platforms and services provide a very practical solution to disclosing omnibus shareholder information to mutual funds, in a timely and accurate manner, for the purpose of ensuring compliance with a mandatory redemption fee. The vast majority of mutual funds, broker-dealers, and retirement plan intermediaries already utilize some or all of these NSCC services and it obviously can be very cost-effective to use this technology for intermediary disclosure purposes. In fact, the use of these NSCC centralized systems may provide the industry and the SEC with the lowest cost alternative in mandating intermediary disclosure of omnibus account information.

This type of same-day omnibus account disclosure also will permit a fund to ensure intermediary compliance with its other policies and procedures, including sales loads, breakpoint discounts, commissions and fees, contingent deferred sales charges (CDSC), and dividend reinvestments.

Remarkably, the best solution to all of these fund compliance issues is not to "reinvent the wheel," but, instead, to use the NSCC "wheel" that has been in operation for more than fifteen years!

If the Commission agrees with CMFI's recommendation that intermediary disclosure of omnibus account information should occur on a same-day basis, then it should also consider amending its breakpoint discount regulations, and any other appropriate rules, to make it clear that funds will be able to receive this shareholder identity and transaction information to ensure uniform compliance with *all* fund policies and procedures.

Thank you for providing CMFI with the opportunity to present its views on these regulatory proposals. CMFI believes that market timing abuses can be effectively deterred by mutual funds through a mandatory redemption fee that: (1) permits funds to have the option to impose a fee higher than two percent (2%); (2) uses the LIFO accounting method; (3) waives the fee for small investors; (4) calculates a de minimis threshold using the dollar amount of the fee instead of the gross redemption proceeds; and (5) permits funds to receive omnibus account information from intermediaries on a same-day basis.

If you or any member of the Commission staff has any questions or need additional information from CMFI, please contact me at 202-783-5300.

Sincerely,

Niels Holch
Executive Director
Coalition of Mutual Fund Investors