THE FINANCIAL SERVICES ROUNDTABLE

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STEVE BARTLETT
PRESIDENT

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Mr. Paul Roye
Division of Investment Management
U.S. Securities Exchange Commission
901 E St., NW
Washington, DC 20004

S7-11-04

Dear Mr. Roye:

As leaders of the financial services industry, who care deeply about restoring investor confidence in mutual funds, the members of The Financial Services Roundtable want to share its views as you consider regulation of mutual funds.

- We believe mutual funds are the bedrock of Americans' investment and retirement income, with American households accounting for nearly three quarters of all mutual fund ownership.
- Despite market fluctuations, we believe mutual funds have built wealth for millions of Americans over the past 50 years and continue to be a proven long-term investment vehicle.
- We believe in a competitive, robust marketplace for mutual funds that favors the investor, and that abusive practices by mutual fund managers must be prevented at all costs.

We support the Commission's efforts to address late processing and market timing abuses in the mutual fund industry. Our member companies are mutual fund managers and distributors and recognize that recent allegations have the potential to undermine investor confidence and integrity in our markets. We believe certain proposals would increase costs or limit flexibility without corresponding increases in investor protection. These unintended adverse consequences would eliminate choices for mutual fund shareholders and reduce investment opportunities.

While there are a multitude of voices weighing in on these issues, our members believe that the SEC has the legal authority and technical expertise to take a thoughtful approach to protect investors. Our member companies recommend an interim rule that would give us the opportunity—working closely with the Commission—to consider these options and their implications for investor protection and the confidence and integrity of our markets.

Improvements to Safeguards Against Late Trading

We believe the processing of mutual fund orders received after 4:00 p.m. should be distinguished from the placing of orders before 4:00 p.m. The SEC has long held that an order to buy or sell fund shares is "received" when the customer transmits it to a broker or other intermediary. This policy has made it feasible for brokers to operate mutual fund "supermarkets" and retirement plans to offer investments in funds and for variable insurance products to offer investments in underlying mutual funds. The SEC has properly sought to increase options for investors while safeguarding against abuses and the Roundtable hopes that any rules ultimately adopted will preserve this balance.

- Funds and intermediaries should be required to adopt enhanced compliance regimes, involving independent audits and attestations. The responsibilities of funds and intermediaries should be clear to prevent late processing.
- Technological solutions should be explored, such as requiring orders to be time stamped through electronic order capture systems consistent with industry audit trail practices. Such systems would have to protect against alteration or tampering and could be subject to external audit, including by governmental entities.

We believe these less draconian options deserve full consideration before adoption of any rule changes that would require mutual fund orders to be received by a fund company by 4:00 p.m. Imposing an earlier cut-off time could seriously disadvantage mutual fund investors.

- It could create potential confusion, as investors would face different rules for placing mutual fund orders than for placing orders in other investments, such as equities. An investor would likely face different rules for his different accounts.
- Investors could receive different results, namely same day versus next day pricing, depending on the broker-dealer they use.
- Due to the complexity of retirement plans, participants in 401(k) plans might be required to comply with earlier deadlines in their retirement accounts than in their other accounts.
- Investors could lose the ability to execute same-day exchanges of funds.
- Finally, investors on the West Coast would be disproportionately affected. For these reasons, we believe shortening the trading day for fund investors could lead to unnecessary limitations on investors with the unintended consequence of reducing savings opportunities.

Improvements to Safeguards Against Abusive Short-Term Trading

The Roundtable believes that mutual fund investors deserve protection from abusive short-term trading, particularly by fiduciaries. Such trading can reduce funds' efficiency and result in lower returns for investors. The regulatory system has brought potential violations to light and the Roundtable is certain that regulators will address violations. We must ensure that harmful practices have no place in mutual funds, that violations are identified and punished, and that funds and their investors are not burdened with inefficient or ineffective regulation. Possible solutions include the following recommendations:

- Enhanced disclosure by funds of their market timing practices;
- Increased compliance responsibilities to ensure those policies are enforced;
- Requiring enhanced disclosure and allowing wider use of fair valuation of portfolios;
- Mandating uniform redemption fees on short-term trading, perhaps with an exception for funds using fair valuation;
- Requiring a uniform holding period apply to redemption fees; and
- Allowing for redemption fees greater than the current 2 percent maximum.

The Roundtable believes that governance and disclosure are crucial tools to ensure that distribution arrangements serve shareholder interests. Fund directors and shareholders should have the information they need to determine the fees incurred by the arrangements between brokers and intermediaries. Examples of the types of information that could be made available by funds and/or intermediaries as appropriate include:

- The existence of revenue sharing or differential compensation arrangements;
- The funds with which the intermediary has such arrangements; and
- The aggregate amount of payments received by the intermediary during a specified period.

Conclusion

On behalf of the Roundtable, we look forward to working with you, the Division of Investment Management, and the entire Commission to ensure that the regulatory framework for mutual funds continues to deliver the protection and efficiency that America's mutual fund shareholders expect and deserve.

Best regards,

Steve Bartlett