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February 28, 2008

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VIA E-MAIL AND OVERNIGHT MAIL

Ms. Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street N.E.
Washington, DC 20549-1 090

Re: Enhanced Disclosure and New Delivery Option for Mutual Funds
File Number S7-28-07

Dear Ms. Morris:

I am writing on behalf of Janus Capital Management LLC ("Janus Capital") in response to the Securities and Exchange Commission's (the "Commission") request for comment on the rule proposal regarding enhanced fund disclosure requirements and new delivery option (the "Proposal"). Janus Capital appreciates the opportunity to comment on this important proposal.

Janus Capital recognizes the value of the Commission's continuing efforts to improve disclosure for investors of investment companies and is in support of simplifying the prospectus that is delivered to investors. In order to ensure that investors are aware of the important information needed to make an informed investment decision, we believe it is essential to provide a document that is readable and understandable, for both current and potential investors. We also believe that it is equally important that enhanced disclosure and delivery requirements do not substantially increase fund and shareholder expenses without comparable shareholder benefit.

After a review of the Proposal, Janus Capital respectfully submits the following comments for the Commission's consideration.

Proposed Amendments to Form N-1A and New Summary Prospectus

Overall, we believe that the proposed amendments to Form N-1A provide an opportunity for increased consistency among the various fund prospectuses that are produced and distributed annually in the mutual fund industry and that such consistency should enhance investors' ability to compare fund offerings. However, some of the details of the Proposal cause us concern and raise questions, as outlined below.

Format

- *Page Limits*- It is the opinion of Janus Capital that the final rule should not limit the number of pages contained within the summary section of the statutory prospectus or the summary prospectus. We applaud the Commission's efforts to make the summary section

succinct and user friendly, but we believe the Commission can achieve its goal by appropriately identifying information that it believes is important to investors without instituting a limitation on the number of pages within which to deliver this information. We believe that useful information should not be sacrificed for the sake of brevity. Should the Commission determine that page limits are appropriate, we ask that the Commission consider providing guidance on whether page limits should differ among the various prospectus sizes that fund companies use (e.g., “digest” vs. 8½ by 11).

Content

- *Fees and Expenses Table*- The information contained in the fees and expenses table is vital to an investor’s decision making process and the final rule should ensure that investors receive all of the information necessary for a thorough and accurate understanding of a fund’s fees and expenses.
 - *Explanatory Footnotes*- The Hypothetical Summary Prospectus provided as an appendix to the Proposal appears to contemplate the exclusion of explanatory footnotes in the fees and expenses table. If it is the Commission’s intent to eliminate such footnotes, we are concerned that excluding explanatory footnotes from the fees and expenses table may add to investor confusion. For example, footnotes often contain detail around when a sales load applies or is waived or describe details of an expense waiver or reimbursement which may vary by complex. Is the ability to access a fund’s website for more information about fees and expenses enough for an investor to make an informed decision? The final rules should address this concern.
 - *Treatment of expense reimbursements/fee waivers*- The final rule should clarify the treatment of expense reimbursements and/or fee waivers in the fees and expenses table. The Proposal does not address whether voluntary (non-contractual) waivers may be reflected in the table, or if voluntary waivers could only be reflected in the table consistent with current SEC guidance (i.e., only within a footnote to the fee table).
 - *Other Expenses*- The final rule should clarify whether “Acquired Fund Fees and Expenses” and “dividends on short positions” will continue to be required in the fee table. The Commission should consider eliminating the “Acquired Fund Fees and Expenses” disclosure as it does not appear relevant given these fees and expenses are already accounted for in the net asset value of underlying funds. In addition, without appropriate footnotes, Acquired Fund Fees and Expenses may cause confusion for investors and may not be appropriate for summary disclosure.
- *Top 10 holdings*- The final rule should eliminate the Proposal’s requirement to provide top 10 holdings disclosure from both the statutory prospectus and summary prospectus. Such holdings information will be stale at the time the investor obtains it and including such disclosure may not capture the impact the holding may have on the performance of a fund. Janus Capital also has concerns regarding the potential impact of this disclosure requirement on its current funds and fund investors. For example, Janus Capital manages funds with 20-30 holdings or that invest in specialized industries and its current portfolio holdings disclosure policy provides for release of only the top 5 holdings of these funds (outside of current regulatory reporting requirements) in order to protect a fund and its shareholders from predatory trading that may occur given the “concentration” of these funds in fewer issuers. If the Proposal’s top 10 holdings disclosure requirement is implemented, the portfolio managers of such funds will be put in a position of having up

to 50% of their portfolio more frequently available to the public, a result that could detrimentally impact the performance of a fund.

Also, the requirement to disclose top 10 holdings in the summary prospectus will require funds to reevaluate their holdings policies, which have been developed by each fund complex with the interest of protecting their funds and shareholders, spending valuable time and some expense in developing website capability, training of internal personnel and ensuring appropriate systems are in place regarding access to holdings information.

New Delivery Option for Mutual Funds

Use of the Summary Prospectus to Satisfy Statutory Prospectus Delivery Requirements

- *Liability*- We are generally in favor of using the summary prospectus to satisfy statutory prospectus delivery requirements. However, we still have concerns about potential liability under the Proposal. We are aware of the various steps the Proposal uses to address liability, such as incorporating the statutory prospectus into the summary prospectus. We are still somewhat uncertain as to whether the Proposal fully addresses the “material omissions” liability standard under Section 12(a)(2) and Rule 159 of the Securities Act of 1933, as amended (the “1933 Act”), particularly if posting of the materials incorporated by reference on the Internet is delayed. Under its safe harbor provision, the Proposal states that the conditions regarding Internet availability of a fund’s summary prospectus, statutory prospectus, statement of additional information (“SAI”), and shareholder reports would be deemed to be met under Sections 5 and 10 of the 1933 Act, notwithstanding the fact that those materials are not available for a time in the manner required, provided that the fund has reasonable procedures in place to ensure that those materials are available in the required manner. Does the safe harbor apply to the “material omissions” provisions of Sections 12(a) and 17(a) of the 1933 Act?
- *“Greater Prominence”*- We look to the Commission for clarification as to what the Proposal’s reference to “greater prominence” actually means as it pertains to marketing material provided with the summary prospectus. For example, if a fund sends a summary prospectus with a six page marketing piece, how can a company meet the prominence standard? We ask that the Commission consider an “at least as prominent” standard as an alternative. This standard does not provide the same ambiguity as the “greater prominence” standard. We also seek clarification about the Proposal’s “is not bound together” provision. Each fund company has a variety of marketing packages that may include a prospectus. We are concerned as to how the term “bound” can be interpreted.

Updating Requirements

- *Quarterly Updating*- Janus Capital requests that the Commission consider amending its quarterly updating requirement from a calendar quarter basis to a fiscal quarter basis. While we understand the Commission’s goal of having funds disclose information on a consistent schedule for ease of comparison by an investor, we question whether the benefits of updating fund performance on a calendar quarter (as opposed to current fiscal quarterly requirements) as well as updating top 10 holdings on the same schedule outweighs the increased time and expense associated with requiring this disclosure, particularly since such information is available online and any additional expenses associated with the quarterly updating are likely to be passed on to fund shareholders. In

addition, many fund companies have funds with different fiscal year-ends. The majority of these companies have staggered fiscal year-ends in order to have adequate time and resources to comply with the existing regulatory filing requirements. By requiring fund performance on a calendar quarter, rather than current fiscal quarterly reporting, the Proposal has the potential to take away any operational efficiency that companies have gained from staggering fiscal year ends. Additionally, quarterly updating would require that fund companies move to a "print-on-demand" environment that may increase fund expenses and possibly delay print delivery because of increased print volume for the industry as a whole.

As an alternative to quarterly updating of each summary prospectus, we ask that the Commission consider requiring that each summary prospectus include a legend that directs investors to a fund's website for updated fund performance and top 10 portfolio holdings information or provide a toll-free number for investors to obtain the updated information.

Provision of the Statutory Prospectus, SAI and Shareholder Reports

- *Linking*- Janus Capital generally supports linking but encourages the Commission to consider the time commitment and expense that will likely be involved. Our concern is that the benefits behind the integrated linking requirements as outlined in the Proposal may not outweigh what is likely to be substantial expense in implementation that may get passed on to fund shareholders. Our concerns are outlined below:
 - *Correlation between Documents*- There is a concern that the information in the summary prospectus, statutory prospectus and SAI were not designed to correlate across the documents. In a statutory prospectus and SAI, there are often multiple references to certain information. The linking provision of the Proposal would require multiple links from the summary prospectus to the various pages of the statutory prospectus and SAI. Creating multiple links within one document would require substantial time and expense.
 - *Back and Forth Requirement*- We ask that the Commission reconsider the back and forth linking requirements outlined in the Proposal. The Proposal requires that a fund's website provide the capability to move back and forth between the summary prospectus, statutory prospectus and the SAI. As noted above, creating multiple links requires a substantial time commitment from technology departments. We suggest that linking to the prospectus table of contents only is a more workable solution.

During our analysis of the Proposal, we considered utilizing HTML and PDF as possible technologies to comply with certain provisions of the Proposal. We note that in using HTML technology an investor would be provided with the ability to use "back" navigation in order to return to the previous page or website. With PDF when an investor clicks on a link to another document from the summary prospectus, a new "window" will appear allowing the investor to easily click between the two windows. With either technology, we do not believe that requiring a back and forth linkage within the document would provide greater benefit to a shareholder or site user than these standard navigation capabilities already provided given the cost of building out such capability.

- *Quarterly Updating*- Should the final rules require quarterly updating of the summary prospectus, as proposed, fund companies would be required to update quarterly the multiple links described above. The frequent changing of links may

lead to delays in properly producing documents on the fund's website. As noted above, quarterly updating should be achieved by updating on the website rather than within the summary prospectus.

- *Website-* While we have not fully examined the total cost of complying with the Proposal, we believe the technology cost for instituting layered disclosure will be substantial. On an industry level, many fund complexes may need to rebuild their website infrastructure in order to meet linking and document storage requirements, as well as to meet its various shareholder needs. Fund complexes such as Janus Capital that service retail shareholders, financial intermediaries and institutional shareholders may need to redesign their current websites, or create entirely new websites, in order to provide a website that is user-friendly. After rebuilding their website's infrastructure, additional personnel may be required to maintain each website. These issues may delay or even deter a fund complex from utilizing this very useful document.

Filing Requirements for the Summary Prospectus

- *Supplements-* The final rule should clarify the use of supplements in updating statutory and summary prospectuses. There is discussion in the Proposal that fund performance and portfolio holdings information in the summary section of the statutory prospectus must be updated only annually and does not need to be updated for purposes of the quarterly performance and portfolio holdings information as required for the summary prospectus. Specifically the release states that the failure to include updated performance and portfolio holdings information in the statutory prospectus would not, solely by virtue of inclusion of the information in the summary prospectus, be considered an omission of material information required to be included in the statutory prospectus. Further guidance would be helpful as to whether a fund would be required to provide updated performance and portfolio holdings information in subsequent supplements to the statutory prospectus required to update other information (i.e., a portfolio manager change).

Compliance Date and Transition Period

- N-1A- We believe that the compliance date of all annual updates six-months after the effective date of N-1A amendments may be a bit aggressive. The six-month period may not allow sufficient time for all of the business areas to make necessary changes to initiate use of the new N-1A formats. The final rule should allow for a minimum of a year for compliance with the new requirements. The Commission should consider voluntary compliance for the first annual update after the compliance date and mandatory compliance at the second annual update.
- Summary Prospectus- While we recognize that the use of a summary prospectus is voluntary at this time; we also recognize the usefulness of the summary prospectus and anticipate that the Commission may make it mandatory at some point in the future. Should the Commission make the summary prospectus a regulatory requirement there are certain factors that we feel are important to consider when determining a compliance date. Specifically, many businesses typically design budgets, including technology, in the prior year that could be substantially impacted by significant changes to their technology resources and budget in the event a short compliance period is proposed. In addition, fund companies are likely to have already maximized their technology capacity with the development of XBRL and e-proxy requirements. It is important that fund

companies be given ample time to prepare for this new use of technology. For example, Janus Capital maintains three separate websites (depending on the distribution channel) through six different vendors so it will take time to coordinate the required changes with those vendors and ensure any linking and updating requirements can be done with current system capabilities or whether new systems will need to be purchased. Additional time may also be needed to train personnel in particular for discussions with clients and phone representatives to help investors understand how to access the information.

Cost Analysis

We ask that the Commission carefully consider the cost analysis of developing the summary prospectus and ongoing maintenance. We analyzed the approximate cost (excluding print and delivery) after initial implementation and one full update cycle to exceed \$4 million. This reflects anticipated personnel cost of approximately 19,000 hours to initially comply with the Proposal and approximately 5,300 hours to comply with the required quarterly updates. This also reflects IT and legal costs related to updating documents after the initial set-up, including quarterly updates for the summary prospectus. As stated earlier, the linking requirements will likely require a redesign of fund websites and represent the largest expenditure. Janus Capital currently has 75 funds and approximately 195 share classes, which would mean that 195 summary prospectuses would potentially have to be updated at the end of each calendar quarter.

Additionally, due to the quarterly updating requirements and uncertainty of new fulfillment volumes, it appears that fund groups will be required to move into a print-on-demand environment. We believe that print-on-demand will increase a fund's per page printing cost. Currently, Janus Capital utilizes print-on-demand for only two percent of our prospectus printing volume.

With respect to costs associated with the proposed amendments to Form N-1A, we anticipate that those costs will not be significant or at least as significant as the costs associated with developing the summary prospectus.

We ask that the Commission consider the combined costs and requirements associated with the summary prospectus, XBRL and e-proxy when considering implementation of the Proposal. We believe the Proposal, in combination with XBRL and e-proxy, may substantially increase cost to the funds and their shareholders, depending on whether fund companies determine to develop internal systems, outsource, or obtain the relevant software. Outsourcing XBRL and e-proxy may add costs up to and in excess of \$400,000. This does not include any costs incurred for ongoing maintenance and updating. We ask that the Commission evaluate whether XBRL technology can be used in conjunction with implementing the Proposal.

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We applaud the Commission and its staff for the efforts in developing a proposal on disclosure reform that can greatly benefit fund shareholders and create efficiencies for the mutual fund industry. We strongly encourage the Commission to carefully consider and weigh the benefits and the costs associated with implementing the disclosure rules as proposed.

Thank you again for the opportunity to comment on this important proposal.

Respectfully Submitted,



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