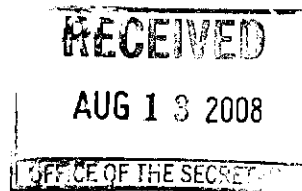


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August 12, 2008



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

**Re: File No. S7-12-08,  
Proposal Regarding "Interactive Data for Mutual Fund Risk/Return Summary"**

Dear Ms. Harmon:

This letter presents the comments of Federated Investors, Inc. and its subsidiaries ("Federated")<sup>1</sup> on the recent issuance by the Securities and Exchange Commission ("SEC," or "Commission") of a Release proposing, and seeking comments on, rules that would require mutual funds to file the "risk/return summary" section of their prospectuses with the Commission in interactive data format using the eXtensible Business Reporting Language ("XBRL"), and to post these XBRL files on their Web sites (the "mandatory XBRL Proposal").<sup>2</sup>

As a preliminary matter, Federated has reviewed the comment letter on this subject submitted by the Investment Company Institute ("ICI") and as a general matter expresses its strong support for the points made therein. Federated is one of the few mutual fund sponsors that participated in the Commission's voluntary program for making such submissions (the "voluntary XBRL Program"), and thus has first-hand experience with the process and with the very serious problems related to making such filings, as reviewed generally in the ICI's letter and discussed more specifically below.

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<sup>1</sup> Federated Investors, Inc. is one of the largest investment management firms in the United States, managing \$333.5 billion in assets as of June 30, 2008. With 147 mutual funds and a variety of separately managed accounts options, Federated provides comprehensive investment management to more than 5,400 institutions and intermediaries including corporations, government entities, insurance companies, foundations and endowments, banks and broker/dealers. We regret that, due to the complexity of this matter and the press of other business, we were unable to submit this letter by the requested date, and we hope the Commission will nevertheless consider our comments.

<sup>2</sup> The amendments were published for comment in Release Nos. 33-8929, 34-57942, and IC-28298, June 10, 2008; 73 FR 35442, June 23, 2008 ("Release").

Federated is taking this opportunity to comment primarily to urge that the Commission:

- **Defer any further action on the mandatory XBRL Proposal until:**
  - It has determined a final course of action regarding its pending proposal to make significant changes to the risk/return summary<sup>3</sup> (as discussed at length in the ICI letter)
  - It has accumulated much more meaningful experience with operation of the voluntary XBRL Program;
  - Significant technical issues relating to the existing data tagging taxonomy and the related technological tools necessary to put such data to use (as discussed at length in the ICI letter and elaborated on below) have been successfully resolved; and,
  - It has performed a more realistic analysis of whether, and if so, how, adopting such requirements would benefit mutual fund investors;
- **Eliminate provisions imposing automatic penalties (“consequences”) for non-compliance with XBRL submission and/or posting requirements; and**
- **After addressing the above matters, if the Commission chooses to proceed in this area, re-issue the mandatory XBRL Proposal for public comment.**

**The Commission Should Defer Further Action on the Mandatory XBRL Proposal Until There Is Assurance that the Taxonomy and Necessary Tools Will Work Properly.**

As noted above, Federated is one of the few mutual fund sponsors that participated in the Commission’s voluntary XBRL Program. Based on its experience with making test filings of tagged risk/return summary information under that Program, Federated strongly supports the ICI’s comments regarding the extensive deficiencies that currently exist with the filing and viewing of such information. Based on its experience, as described below, Federated has concluded that the taxonomy, conversion methods, and viewer tools are not sufficiently developed to sustain a mandatory filing requirement. Due to the present significant deficiencies, Federated believes it would be irresponsible for the Commission to proceed with adoption of the mandatory XBRL Program before there is assurance that these have been remedied.

Federated submitted its first voluntary filing on February 29, 2008. Since Federated’s current document production process is not data-driven from a content management system, the XBRL conversion was done after completion of the print production process using a manual tagging

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<sup>3</sup> See Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, SEC Release Nos. 33-8861 and IC-28064 (Nov. 21, 2007), 72 Fed. Reg. 67790 (Nov. 30, 2007) (“Summary Prospectus Proposal”).

method. It is worth noting that Federated reviewed conversion software from several third-party providers and determined them all to be equally cumbersome and manually-intensive. Although applying the tags was not difficult, it was quite time-consuming and error-prone, necessitating a rigorous proofreading process that identified major substantive errors.

During the tagging exercise we encountered two instances where the XBRL taxonomy was limited and did not provide the ability to properly tag certain data elements. With respect to fee table information, the taxonomy is not currently able to accommodate anything other than the most basic structure. Although the fee table for the fund Federated selected for its test filings is not the most extensively annotated of Federated's funds, it does have a number of footnotes and certain cross-references therein. The current taxonomy simply does not provide any way to accurately replicate in the tagged data the presentation that is set forth in the printed pieces. This is a very serious problem. Additionally, under the bar chart, Federated provides the year-to-date return, highest quarterly return, and lowest quarterly return in narrative form. The taxonomy calls for this disclosure to appear in a chart. Moreover, the year-to-date return was not for a full year and required the addition of narrative to that portion of the chart where only a period-end date would appear. The taxonomy would not allow for this. Therefore, in both of these instances, Federated was forced to improvise an approach.

When the SEC made available the Interactive Risk & Return Summary Report Viewer, Federated promptly checked how its initial filing was presented. Upon review, it quickly became apparent that interpretive decisions made during the tagging exercise resulted in an unexpected and undesirable presentation of the information. In an effort to correct the situation, Federated submitted a second filing on April 10, 2008. Although the second filing did resolve some of the problems with how the Viewer rendered the initial filing, the differences in application of data tags resulted in additional problems in the presentation of the second filing. Thus, Federated is planning to make a third filing in the near future as they continue to struggle with presentation issues related to the taxonomy and Viewer.

This "trial and error" approach is, obviously, very inefficient. Unfortunately, it is at the present time necessary because the current taxonomy is inadequate and the industry does not have the ability to preview the XBRL tagged document with the SEC viewer prior to submitting the filing. As it stands, registrants have to guess how to adjust application of an insufficiently robust taxonomy so as to arrive at a true presentation of the information, and there simply is no predictability as to how changes in the application of the available tags will affect the version of the information as rendered through the Viewer.

The fact that the taxonomy does not address all the types of information that are included in filings by the various funds means that each fund will present information in a customized and unique manner based on their understanding and innovation. This defeats the basic, stated

purpose of comparability and may lead to confusion and/or errors by the users of this data. Participation in the voluntary program provided Federated with the means to preliminarily evaluate the taxonomy, conversion methods, and tools. Based on that rather onerous experience, it is without question that a significant number of additional test filings, from a much broader sample of funds and fund firms, would be needed in order to conduct a proper evaluation and enable the construction of a taxonomy and related tools that are able to successfully accommodate variations in the content and presentation of risk/return summary information. To date, only a tiny percentage of fund families have submitted filings in the voluntary program; given the issues Federated encountered, a more thorough vetting process is clearly warranted. In addition, the SEC has not exercised a formal method to collect feedback on the taxonomy and viewer from voluntary program participants, and the information that the SEC staff asked Federated to provide regarding costs related to making the test filings was somewhat narrow in scope. *In sum, until there is significantly increased participation in the voluntary program, and feedback from the participants is collected, analyzed and acted upon, we believe it would be premature and counterproductive to mandate XBRL filings.*

### **The Premises Underlying the Belief that XBRL Tagging of the Risk/Return Summary Will Benefit Mutual Fund Investors Are Fundamentally Flawed.**

Part V. of the Release, the “Cost/Benefit Analysis,” seems to assume, without elaboration (let alone, critical analysis), that availability of XBRL-tagged risk/return summary information will help mutual fund investors make better investment decisions. While we agree that such a finding should be necessary to justify the imposition of these requirements, we strongly maintain that such a finding is not warranted because (1) the risk/return summary provides an insufficient basis for making an investment decision; and (2) overwhelmingly, mutual fund investors rely on the assistance of professional financial advisers in making investment decisions.

1. The risk/return summary is simply that – a summary of certain information that is set out in more detail elsewhere in a prospectus. Thus, there is a very significant amount of information that mutual funds are required to disclose (and which could be material to an investment decision) that is not even hinted at in a risk/return summary. Moreover, even with regard to the subjects it addresses, the risk/return summary is, necessarily, an incomplete statement. To put it another way, the risk/return summary, *by design*, omits material facts necessary to make the statements therein not misleading.

We understand that these issues have not been lost on the Commission, nor on commentators, in connection with the Summary Prospectus Proposal, where the ability to incorporate by reference into a summary prospectus the much more complete information contained in the full prospectus, the Statement of Additional Information, and shareholder reports is one of the key aspects of that proposal. The absence of any similar provision in the mandatory XBRL Proposal is therefore very troubling. However, regardless of the protections the Commission might create in this

regard, we believe there is a very real risk that at least some investors will assume that the information being thus emphasized, whether in a summary prospectus or (to an even greater extent) in a data-tagged risk/return summary, is all they need to know in order to make an investment decision. **We do not believe that placing so much emphasis on such limited information is in the best interest of fund investors.** The fact that investors might at some future point (once the system is fully developed) be able to view, in isolation, only discrete elements of the risk/return summary only exaggerates this risk. Indeed, our fear is that proceeding with the mandatory XBRL Proposal might inadvertently cause inferior decision-making rather than better investment decisions.

Moreover, the information in a risk/return summary tends to be either relatively static (*e.g.*, narrative statements of fund objectives, strategies, and risks), or else ephemeral (*e.g.*, performance information), and as discussed below is already widely, and we believe promptly, available. Thus, even assuming the Commission is correct in its belief that adoption of the mandatory XBRL Proposal would speed dissemination of this information to the marketplace, we would maintain that the incremental increase in speed of dissemination would be negligible. **More importantly, we don't believe it would help investors to impose additional costs on their mutual funds in hopes of making static, or quickly outdated, information a bit more rapidly available.**

In addition, the Commission's rationale that the proposed requirements could benefit investors by making financial markets more efficient in regard to capital formation "as a result of mutual funds' being in a better position to attract shareholders because of greater (less costly) awareness on the part of investors of mutual fund risk/return summary information"<sup>4</sup> does not withstand scrutiny. Fund investors already enjoy access to an unprecedented amount of information regarding mutual fund investing that covers the subjects included in a risk/return summary, along with a wealth of additional information that appears to be of value to investors. Sources range from financial web sites, mutual fund web sites, and popular Internet search engines, to mass-marketed publications such as *Consumer Reports*. These resources tend to add value to the minimal and selective factoids contained in a risk/return summary by providing a variety of other information that may assist investors in making informed investment decisions, such as additional types of, and very current, performance figures; information regarding fund distributions; various descriptions or analyses of fund portfolio holdings (top holdings, sector weightings, credit quality, *etc.*); portfolio manager information; ratings and rankings of individual funds and fund families; along with general economic reports and a host of investment-related planning tools. Thus, any investor who wishes to can today easily access all the risk/return summary information, along with a very significant amount of relevant additional

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<sup>4</sup> Release, text accompanying footnote 162; 73 FR 35460.

information at little or no cost. Furthermore, as discussed immediately below, investors primarily gain “awareness” of fund-related information by seeking help from professionals, not (as suggested in the Release) by sitting in front of their home computers attempting to construct their own fund analyses.

2. As noted in Part V. of the Release, “Benefits of the proposed rulemaking accrue from the acceleration of market-wide adoption of interactive data format reporting. The magnitudes of the benefits thus depend on the value to investors of the new reporting regime relative to the old reporting regime and on the extent to which the mandated adoption speeds up the market-wide implementation.” In our view, “the value to investors of the new reporting regime relative to the old reporting regime,” if any, will be limited. Indeed, it does not appear from the Release that individual investors have expressed interest in the availability of interactive risk/return summary information.

This section of the Release goes on to envision that “Any investor with a computer would have the ability to acquire and download data that have generally been available only to intermediaries and third-party analysts.” Putting aside the technological challenges to such activity, we believe it is unlikely that any meaningful number of mutual fund investors would have the time, skills, or inclination to engage in such an exercise. According to the ICI’s *2008 Investment Company Fact Book*, among households that own fund shares outside defined contribution retirement plans, 80% own fund shares through professional financial advisers, including full-service brokers, independent financial planners, insurance agents, bank or savings institution representatives, and accountants (and, this figure excludes purchases through fund supermarkets and discount brokers who also already provide fund information through a variety of automated tools). We do not believe it’s reasonable to expect that even a small percentage of these investors will decide to forego professional advice in favor of a do-it-yourself approach based on the availability of data-tagged risk/return summary information.

The Release also suggests that, even if mutual fund investors do not directly make use of data-tagged information, their intermediaries might, and that this could have some indirect benefit for the investors. Our first observation on this point is to question the fairness of imposing additional costs on mutual funds so that the intermediaries who sell funds and advise fund shareholders might benefit. That aside, however, professional financial advisers could be viewed as derelict in their duties if they relied only on information that is included in funds’ risk/return summaries. Indeed, it is our understanding that they rely on a much broader array of proprietary and third-party information, including a due diligence process incident to making a fund available, analyses of such matters as fund performance and fund holdings, “stewardship” grades, and rankings of funds and fund families. They may also employ tools to, for example, measure portfolio risk, recommend asset allocation, assess tax consequences, and analyze retirement planning. It is simply not valid to assume that availability of a small set of XBRL

data will either cause financial professionals to change how they advise their customers, or permit them to realize material cost savings that would be passed on to customers. The maximum potential benefit that can be expected does not justify the associated costs.

**The Commission Should Eliminate Proposed Provisions Imposing Automatic Penalties (“Consequences”) for Non-compliance with XBRL Submission and/or Posting Requirements.**

In Part II. H. of the Release (“Consequences of Non-Compliance and Hardship Exemption”), the Commission is proposing that if a filer does not provide the required interactive data submission, or post the interactive data on its Web site, by the required due date, the filer’s ability to file post-effective amendments under Rule 485(b) (which provides for immediate effectiveness of amendments that make non-material and other changes) would be automatically suspended. The Commission’s rationale for the proposal is that it would “appropriately direct attention to the proposed interactive data requirement.” Federated strongly concurs with the ICI’s comments on this aspect of the mandatory XBRL Proposal, and urges the Commission not to impose such an unwarranted, punitive, and highly inappropriate provision.

We recall that the SEC once made a similar proposal in connection with a significant set of amendments to Rule 485.<sup>5</sup> There, the proposed amendment would have precluded a fund from making filings under Rule 485(b) if the fund had failed to file a report on Form N-SAR for the most recent period for which such a filing was required. As noted in the Commission’s Release adopting certain of the proposed amendments,<sup>6</sup>

This proposal was criticized as unnecessary and potentially unfair to funds. The Commission was urged to use enforcement remedies to punish late filers rather than condition rule 485, as proposed. Upon reconsideration, the Commission has decided not to adopt the proposed limitation on the use of paragraph (b). Funds are reminded that failure to timely file Form N-SAR is a violation of Section 30 of the 1940 Act for which penalties are prescribed [*see* Section 42 of the 1940 Act].

Federated was one of the commentators who criticized that earlier proposal, noting that it was “unduly punitive” and that failure to make a timely N-SAR filing “should not result in unrelated and inappropriate penalties imposed through the registration process. If the Commission is having problems with timely N-SAR filings, it should use the enforcement remedies it already has to punish late filers.”<sup>7</sup> As discussed below, Federated believes the current proposal may have similar drawbacks.

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<sup>5</sup> Release No. IC-19722, September 21, 1993.

<sup>6</sup> Release No. IC-20486, August 17, 1994.

<sup>7</sup> Comment letter re: File No. S7-26-93, dated November 24, 1993, from S. Elliott Cohan to Jonathan Katz.

The earlier proposal would have imposed the penalty for a complete failure to file required information. In contrast, the current proposal would impose the penalty even though the information in question would be contained in a post-effective amendment that has *already* been filed with the Commission and has become effective! In addition, the "need" for this type of automatic penalty is, if anything, less now than it might have been in the mid-1990s, given the advent of Rule 38a-1 and the fact that funds would have to accommodate new filing requirements into their compliance monitoring and testing regimens.

Moreover, the Commission appears to have no basis for imposing a harsh remedy. The Release cites no reason for the Commission to believe that registrants would ignore the interactive data filing requirements (if they were to be imposed). Indeed, there is nothing cited in the Release that would suggest that mutual fund registrants take *any* of their myriad filing obligations lightly. And, by making no allowance for individual circumstances or mitigating factors, the proposed penalty provision raises basic issues of fairness and due process.

The Commission has ample authority to punish those who violate its rules in a variety of ways, and the mutual fund industry is well aware of the Commission's enforcement capabilities. Here, as before, the Commission should rely on those powers and capabilities to address rule violations.

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Please do not hesitate to contact me at 412-288-6331 with any questions about this submission.

Thank you.

Very truly yours,



Peter J. Germain  
General Counsel

cc: John McGonigle