Insured Retirement Institute
1100 Vermont Avenue, NW | 10th Floor
Washington, DC 20005

t | 202.469.3000
f | 202.469.3030

www.IRIonline.org
www.myIRIonline.org

Submitted electronically to rule-comments@sec.gov

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Re: File No. S7-12-18: Request for Comment on Fund Retail Investor Experience and Disclosure

Dear Mr. Fields:

On behalf of our members, the Insured Retirement Institute ("IRI")[1] appreciates the opportunity to respond to the request by the Securities and Exchange Commission (the "Commission" or the "SEC") on enhancing disclosures on mutual funds, exchange-traded fund ("ETFs") and other types of investment funds to improve the investor experience and to help investors make more informed investment decisions (the "Request"). We applaud the Commission for undertaking this important initiative.

IRI is pleased to provide feedback on the investor experience, but we understand that our comments can only address one part of the equation. Investors are often the best source of information for how to improve the investment experience, and they are in the best position to tell the Commission what is and what is not helpful in making investment decisions. Therefore, our comments will avoid addressing many questions that are best left for investors to answer.

Instead, our comments will focus on how to improve disclosures from the industry perspective. Our comments will fall into two categories. First, we will address how new technologies can be

[1] IRI is the only national trade association that represents the entire supply chain of the retirement income industry. IRI has more than 500 member companies, including major life insurance companies, broker-dealers, banks, and asset management companies. IRI member companies account for more than 95 percent of annuity assets in the United States, include the top 10 distributors of annuities ranked by assets under management, and are represented by more than 150,000 financial professionals serving over 22.5 million households in communities across the country.

implemented to provide disclosures in a more efficient and easier to understand manner. Second, we will offer a high-level perspective on how the fund disclosure regime could adopt a modern approach based on our members' experiences with retail investors.[2]

Generally, IRI supports the Commission's efforts to simplify the current disclosure regime. As the Commission correctly characterized in the Request, the current disclosure regime was designed at a time when investors relied exclusively on paper to receive pertinent information. With the rapid increase in consumer adoption of modern technology, the financial services industry now has an opportunity to leverage new technologies to enhance the quality and utility of disclosure documents. As the SEC undertakes this effort to adapt the regulatory framework to the modern world, it should focus on ensuring investors can find what they need, when they need it, in a format that is easily understandable.

New technology is not the only driving force behind the need for modernization of the disclosure framework. After nearly 85 years in existence, the disclosure regime has become needlessly bloated, resulting in excessive compliance burdens for the industry and, more importantly, disclosure overload for investors. We know the Commission already recognizes and appreciates the need to address disclosure overload. To that end, many of our recommendations focus on a layered approach to disclosure, under which retail investors would be provided with summary documents designed to concisely convey the material information investors need when making an investment decision, while making more detailed information available upon request for those who are interested in digging deeper.

I. DELIVERY OF FUND INFORMATION

The way in which fund information is delivered to investors can be as important as the content included in the disclosure itself. Effective disclosures must enable an investor to identify relevant information at the point in time when the information is pertinent to the investor's investment decision. Therefore, to determine whether information has been effectively delivered to investors, the Commission is considering both (1) the timing of the delivery and (2) the method of delivery. To simplify our comments on the delivery of fund information, we have mirrored this approach and responded to the timing and method of delivery separately.

1. Timing of Disclosure Delivery

Several of the questions asked in the Request suggest that the SEC is considering revisions to the disclosures provided to consumers at the point of sale. IRI believes that point-of-sale disclosures should be designed to reflect the Commission's efforts to implement a layered disclosure system, which would help to prevent information overload for retail investors.

[2] The Request included a number of questions pertaining to a possible summary prospectus for variable insurance products. However, in light of the release of the Commission's proposal on "Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts" on October 30, 2018, we are not addressing those questions in this letter. IRI and our members commend the Commission for issuing this proposal, and we look forward to reviewing the proposal in depth and providing constructive feedback to the Commission in the coming months.

Ordinary investors very often derive little utility from the lengthy and complex disclosure documents current required to be delivered at the point of sale.

Research conducted by the SEC supports a layered disclosure regime that affords investors the opportunity to choose how much information they would like to consume.[3] The Commission has stated that layered disclosure is intended to give the investor the essential information, while providing access to more detailed information online or upon request.[4]

Moreover, the Commission's own research into the educational value of prospectuses provide ample evidence to suggest that prospectuses are often ignored by retail investors. According to investor research conducted pursuant to the *Dodd-Frank Wall Street Reform and Consumer Protection Act* ("Dodd-Frank"), only 6.2% of surveyed investors indicated that a mutual fund prospectus was the most important source of information for an investment decision.[5] In fact, nearly half of investors ignore the prospectuses they receive.[6] Predictably, investors primarily rely on professional advice, the internet, or family and friends when deciding to invest into a fund.[7]

Investors' reliance on professional advice, the internet, or family and friends is likely explained by the creative ways these sources of information can educate consumers. A prospectus must follow strict rules regarding the content, format, and presentation of information. By contrast, information can be conveyed by professional advisors, on the internet, or by family and friends in a variety of ways. As demonstrated by the Commission's own research, these informal channels of communication are often more influential for investors when making important financial decisions than mandated language contained in a disclosure. While these informal educational tools cannot replace the formal disclosures mandated by the Commission, they can provide investors with useful information before making an investment decision and have a significant impact on investment decisions, which are unlikely to countered by point of sale disclosures containing mandated language.

In the Commission's prior reviews of its point of sale disclosure rules, the Commission has been careful to consider information overload when determining what information should be provided at the point of sale.[8] The layered disclosure regime may mitigate circumstances where

---

[3] Securities Exchange Commission, Study Regarding Financial Literacy Among Investors as Required by Section 917 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2009) *available at* https://www.sec.gov/news/studies/2012/917-financial-literacy-study-part1.pdf ("Dodd-Frank Study")
[4] *Id*. n.4.
[5] *Id*. at 93-4.
[6] *Id*. at 95-6 ("approximately 44.3% of those who recalled receiving a statutory prospectus admitted that they rarely, very rarely, or never read them.…Reasons given for *not* reading statutory prospectuses or summary prospectuses also varied. The online survey respondents who reported generally not reading a statutory prospectus mostly indicated that the documents were 'too complicated,' 'too long,' or 'too boring,' or that they relied 'on a broker or other financial advisor.'")
[7] *Id*. at 93.
[8] *See* Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions in Certain Mutual Funds and Other Securities, and Other Confirmation Requirement Amendments, and Amendments to the

disclosures are too bulky and distract investors from material information.[9] Moreover, the layered disclosure concept spreads out the timing where disclosures are delivered to the investor. Delivering several disclosure documents to the investor at one point of time is as likely to cause information overload as delivering one very large disclosure.

Based on the Commission's layered approach to disclosure and the Commission's own research into investor financial literacy, it appears that requiring additional point-of-sale documents would undermine the goal of improving the investor experience. Particularly, requiring prospectuses to be delivered at the point of sale would merely provide investors another document that will be left unread by the average investor. Given these realities, the Commission should not look to require more point of sale disclosures.

Recommendation #1: The Commission should adapt its point of sale disclosure rules to minimize information overload and ensure that investors can easily locate the most important information while retaining the ability to access additional information.

2. Method of Disclosure Delivery

Given investors quickly changing preferences towards digital documentation, IRI urges the Commission to take steps to embrace digital delivery systems for disclosures. The Commission acknowledged in the Request that 95 percent of households owning mutual funds have some form of internet access.[10] Even for Americans 65 or older – who are often characterized as being resistant to or less comfortable with new technology – households owning mutual funds have a high rate of internet access at 86 percent.[11] Given the high level of adoption, the Commission should look to promote digital disclosure methods for investors to manage their financial disclosures.

While information overload is a critical concern of the Commission's disclosure regime, utilizing technology may help investors navigate required disclosures and forego the tiresome process of sorting through several hardcopy documents. A study conducted by the Pew Research Center concludes that technology is helping Americans cope with tremendous amount of information Americans are flooded with on a daily basis.[12] The survey found that over 80 percent of people are confident in their ability to use digital gadgets to meet informational demands, and that

---

Registration Form for Mutual Funds, Investment Company Act Release No. 26341 (Jan. 29, 2004) [69 FR 6438 (Feb. 10, 2004)].

[9] *Id.* at 10356 ("[A] number of factors suggest that Internet-based disclosure could supplement point of sale and confirmation disclosures, and could adequately serve as a primary means of providing some types of information to customers…. [P]oint of sale and confirmation disclosure of quantified compensation information also may lead to 'information overload.' This may distract investor attention….")

[10] *See* ICI Research Perspective: Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet, Investment Company Institute, at 18 (Oct. 2017), available at https://www.ici.org/pdf/per23-07.pdf.

[11] *Id*. at 19.

[12] John B. Horrigan, *Information Overload*, Pew Research Center, December 7, 2016, available at http://www.pewinternet.org/2016/12/07/information-overload/

Americans with limited access to technology are more likely to be overwhelmed with information overload.[13]

The Pew study demonstrates the value technology can have in our personal lives managing extreme amounts of information, and IRI suggests that the same technology could be used for investors to sort through disclosures. Electronic disclosures allow innovative tools (such as hyperlinks, searchability, and mark-up functions), which allow investors to find information more quickly and easily. Given the benefits of electronic disclosures, the Commission should act to allow funds to deliver electronic prospectuses or summary prospectuses, unless the investor requests a paper copy.

There are a variety of methods the Commission could implement to encourage digital delivery. As the Request suggests, investors could receive a notice (such as a postcard or email) with a URL for a webpage containing the disclosure. This would provide investors a hardcopy notice, while still avoiding the needless expense of printing the entire disclosure and delivering it to the investor. In addition (or as an alternative), the disclosures could be emailed directly to investors who have an email address on file with their financial professional.

Recommendation #2: The Commission should allow methods to incentivize investors to accept digital disclosures to enable investors to process and sort through information in a more efficient manner than traditional hardcopy disclosures.

IRI also believes the Commission should permit investors to be auto-enrolled into a digital delivery system, with the ability to opt-out. Behavioral economics has proven that auto-enrolling is an effective device at nudging people in one direction or another. When people are auto-enrolled into a system, they rarely opt-out.[14] Auto-enrolling features can be efficient when its nudging effect is used for the right purposes. IRI believes using an auto-enrolling system for digital disclosures would be effective at prompting more investors to take advantage of the navigation features available on a digital interface and decrease the costs associated with printing hardcopy disclosures.

While the useful features of digital disclosures are discussed above, the Commission should also consider the cost savings associated with digital disclosures. It is undisputed that hardcopy disclosure documents are expensive to print and ship. In a cost-benefit analysis considering the costs incurred by industry participants who print and ship fund prospectuses, the analysis concluded the process costs between $236 and $241 million in annual expenses.[15] When the significant cost savings of digital disclosures are considered along with the important tools they

[13] *Id*.
[14] *See* Richard H. Thaler and Shlomo Benartzi, Save More Tomorrow: Using Behavioral Economics to Increase Employee Savings, 112 J. Pol. Econ. 165 (2004).
[15] ICI Cost-Benefit Analysis of SEC Mutual Fund Disclosure Reform Proposal, Investment Company Institute, available at https://www.ici.org/policy/comments/cov_comment/ci.08_sec_prospectus_com_att2.print#funds.

include in regards to digest high amounts of information, it is apparent why auto-enrolling is justified for digital disclosures.

__Recommendation #3:__ The Commission should allow for industry participants to auto-enroll investors into digital disclosure systems to lower compliance costs and to nudge investors to use more effective technology when considering investment decisions.

Finally, IRI also urges the SEC to encourage industry participants to use innovative methods to communicate with their clients. The Commission has already expressed an interest in utilizing technology to provide more flexible disclosures that will appeal to investors across the spectrum.[16] Investors, like anyone else, each learn differently and may prefer that disclosures are provided in different mediums. For instance, some investors may be content with written disclosures, while others will prefer informational videos or oral presentations. Today's technology allows for disclosures to be provided in various mediums, and the Commission should seek to encourage companies to build disclosure infrastructure to incorporate these possibilities.

Additionally, the Commission should encourage the financial industry to develop new communication methods with their clients. Technology allows for financial professionals to connect with their clients over text message, email, notifications via applications, social media, and many other ways. The Commission should encourage the financial industry to evaluate all these communication techniques to determine which method is best for communicating relevant information to the customer.

__Recommendation #4:__ The Commission should encourage industry participants to develop innovative methods for communicating with their clients.

II. DESIGN OF FUND DISCLOSURES

While IRI believes that disclosures should incorporate technology to make the disclosures easier to understand, IRI does not believe the SEC should mandate the use of any specific technology for disclosures. Currently, the SEC does impose some requirements on the design of disclosures, such as the plain language requirement, page limits, and in some instances, hyperlinks are required. However, IRI does not believe these design requirements would justify any action to mandate certain technology into disclosures. For instance, the Request asks whether the Commission should require certain fund disclosures to have certain readability scores, and the

[16] Commissioner Hester M. Peirce, Statement at the Open Meeting on Standards of Conduct for Investment Professionals, Apr. 18, 2018, available at https://www.sec.gov/news/public-statement/statement-peirce-041818 ("If instead we encouraged firms to be creative in their use of videos, interactive computer-based disclosure, mobile apps, and so forth, investors would be more likely to take in and think about the information we want them to understand. Allowing more creativity would complicate our oversight efforts, but this drawback seems outweighed by the potential benefits. I appreciate the staff working with me to make the proposal more open to innovative methods.…")

Commission also asks whether other technologies besides hyperlinks should be required to connect information sources (i.e., QR codes).

IRI urges the SEC to reject any additional mandates on the design of disclosures, particularly regarding technology. While page limits and readability scores may advance the Commission's goal of making disclosures more easily understandable, mandating that certain technological features be included in the disclosure would hinder the disclosure process. Technological advancements can be beneficial to the disclosure regime because it allows disclosures to be conveyed through a variety of different mediums. If the SEC were to mandate certain technologies be used in every disclosure, it would be deciding which technologies are the best to convey information. We believe the Commission should give financial service companies the flexibility to determine what features work best.

Instead, the Commission should focus on developing guidelines and parameters as to what information is included in the disclosure, how it is delivered, and how many pages the disclosure extends to, but the Commission should reserve the technical features of the disclosure to the individual parties. Each firm should be able to decide whether a disclosure needs a visual and whether hyperlinks or QR codes are more effective at directing investors to online disclosures.

***Recommendation #5**:* The Commission should not require the use of any particular technology features but should establish appropriate parameters for firms to follow in using new technologies in their disclosure materials.

* * * * *

Conclusion

Once again, we commend the Commission and its staff for undertaking this effort to improve the investor experience. We appreciate the opportunity to share our comments and recommendations, and we hope the recommendations presented in this letter are helpful to the Commission.

If you have questions about anything in this letter, or if we can be of any further assistance in connection with this important regulatory effort, please feel free to contact me or Jason Berkowitz, IRI's Vice President and Counsel for Regulatory Affairs.

Sincerely,

Catherine J. Weatherford
President & CEO
Insured Retirement Institute