



November 5, 2010

Elizabeth Murphy, Secretary
US Securities and Exchange Commission
100 F Street NE
Washington DC 20549-1090

Re: Release 33-9128; File No. S7-15-10; Mutual Fund Distribution Fees, Confirmations
("the Release")

Dear Ms. Murphy,

I am writing on behalf of the National Association of Independent Broker-Dealers (NAIBD). The NAIBD was formed in 1979 to positively impact rules, regulations, and legislation by facilitating a consistent, productive relationship between industry professionals and regulatory organizations. The organization is national in scope with a network of approximately 350 Broker-Dealer and Industry Associate Members.

NAIBD appreciates the opportunity to comment on the proposed rule noted above. We hope that our expressed views will have constructive value in presenting alternatives, issues and concerns regarding the new rule proposal.

The potential impact resulting from the proposal regarding mutual fund distribution fees and confirmation strikes at the heart of our membership. Many of our members are small, independent firms who derive a significant percentage of their revenues from 12b-1 fees. The 12b-1 fees enable these firms to provide ongoing service to investors whose buy and hold investment strategies have served them well. Importantly, many of these investors have less than \$100,000 to invest, limiting significantly the pool of brokers or advisors willing to oversee their investments, provide ongoing reports, make relevant periodic disclosures, and other services that the 12b-1 revenue has enabled over the years.

We urge the SEC to reevaluate its proposal including the proposed cap on ongoing marketing and service fees. Instead, we firmly believe that if investors are provided with clear and readily understandable disclosure of the actual costs and fees associated with their account, they will make a decision that suits their needs. We are aware of powerful interactive technologies that could be employed to provide investors and broker-dealers exactly the detailed information they need to make an informed decision; or in the case of the broker-dealer, a compliant decision.

In connection with research and analysis of the SEC's rule proposal, the undersigned Committee Chair attended a demonstration of an available technology (by the company

that licenses the analyzer technology to FINRA), and consulted with its principal mathematician. Roth observed that the system was capable of presenting information regarding the impact of share classes on account value, broker compensation, firm compensation, and fund compensation, precisely the type of information an investor requires in order to arrive at an informed at-a-glance decision. Data presented thus, readily accessible in a web-based format, is data far more useful than any paper disclosure or periodic report can provide, and is, importantly data that both today's AND tomorrow's investor will utilize.

Importantly, we believe the focus of the SEC should expand beyond cost, and consider the impact of terms, conditions, fees and charges on the overall account value over time. We believe a broader focus will help to consider whether a conflict of interest is material if it does not provide incentive to put an investor in the wrong class of shares.

NAIBD believes other statistical and mathematical research must be performed including a review of the impact of 12b-1 fees as a percentage of total cost. We believe that the ratio will vary significantly among accounts, and as such, that there is no clear winner and worse, that costs can be shifted at the fund level to accommodate changes the SEC proposes. We believe it is critical that the SEC employ analytics to ensure that there are no unintended consequences to its proposed amendments.

We support the position of another commenter who wrote that the proposal 'will do no good' as it stops short of a more 'sweeping overhaul of fund expense ratios, from top to bottom, that would break fees into appropriate, easy to understand buckets' with standardized accounting.'¹

In fact, we support enhanced disclosure that will make this information concise and comprehensible for investors. We suggest that the SEC consider alternatives to its proposal that will put the essential facts into the hands of investors, thereby allowing the investor to make his/her own decision.

To accomplish this, we believe that the Mutual Fund Analyzer currently available on the FINRA website could be significantly enhanced to integrate data from external sources (such as mutual fund companies), calculate the impact of fees and costs, allow investors to mix and match combinations of share classes with alternatives such as advisory fees², caps or no caps, and ascertain their own best overall value. As noted above in the

¹ Karen Dolan, director of fund analysis at Morningstar, wrote in the Oct. 20 letter.

² the Typical fee for advisory services for accounts sized between \$100,000 and \$1,000,000 = 1.25% [per Rand Study p 73]

comments regarding the company that licenses the analyzer technology to FINRA, the technology is currently available.

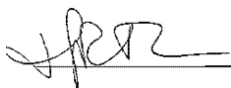
We believe that investors will not readily understand the purpose or impact of a ‘service and marketing fee’ any better, or any differently, than they have understood ‘12b-1s.’ What they are capable of comprehending, and what they deserve to receive, is a tool that will enable them to determine precise amount of costs and fees charged to them at the time and over the life of their mutual fund investment.

We question the efficacy of a proposal that does not incorporate terms and conditions of disclosure related to the soft dollars that mutual fund companies pay to large broker-dealers based on volume sales, which some sources estimate are equal to or exceed the amount of 12b-1s.³ We request that a careful study be conducted to ascertain the impact of this on firms and investors.

In summary, we respect and support any rulemaking that will materially benefit investors, but we lack confidence that the steps proposed by the SEC’s Release will have the desired affect. We fear that new conflicts of interest will arise in the place of current perceived conflicts. Moreover, we stress that conflicts of interest only matter if they are an incentive to put investors in the wrong share classes.

Thank you for the opportunity to comment on this proposed rule.

Sincerely,



Lisa Roth
Association Past-Chairman
Chair, NAIBD Member Advocacy Committee

³ As reported by Dan Jamieson, Investment News, August 6, 2010.