Cetera™
FINANCIAL GROUP

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U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Attn: Elizabeth M. Murphy, Secretary

Re: Mutual Fund Distribution Fees; Confirmations – Release Nos. 33-9128; 34-62544; IC-29367; File No. S7-15-10

Dear Secretary Murphy:

Cetera Financial Group, Inc. appreciates the chance to comment on recently proposed rule changes regarding mutual fund distribution fees and confirmations ("Proposal").[1] Cetera Financial Group, Inc. is a holding company for three independent channel broker-dealers.[2] Our broker-dealers conduct a retail business, and serve customers of all income levels and sophistication. All three broker-dealers are dual registrants, and have customers who may have both brokerage and advisory accounts depending on the nature of the products and services provided to them.

We favor simplifying the disclosure of fees and expenses deducted from fund assets, including compensation received by intermediaries for selling fund shares. As the financial services industry is in the process of adapting to unprecedented regulatory change, retail broker-dealers are well served by the Commission's goal to provide customers with clear disclosure of fees and expenses at a fund and intermediary level. However, the Proposal does not accomplish this important goal.

The amendments to Rule 10b-10 require disclosures that will only serve to confuse consumers without moving the ball forward on clear and focused disclosure of fees and expenses.

Replacement of Rule 12b-1 with Rule 12b-2 does not address whether the 25 basis point cap applies to legitimate ongoing administrative fees paid to intermediaries outside of a 12b-1 plan. The suggestion in Proposed Rule 6c-10(b) that there be mandatory conversion of shares with ongoing sales charges based on a reference load does not take into account average holding periods in funds with more than 25 basis point 12b-1 fees. More analysis of average holding periods should be conducted before proposed Rule 6c-10(b) is promulgated.

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[1] Mutual Fund Distribution Fees; Confirmations, Securities Act Release No. 33-9128; Exchange Act Release No. 34-62544; Investment Company Act Release No. 29367 (Jul. 21, 2010); 75 FR 47064 (Aug. 4, 2010).

[2] Cetera Financial Group, Inc. is the holding company for three independent channel broker-dealers: Financial Network Investment Corporation, Multi-Financial Securities Corporation, and PrimeVest Financial Services, Inc.

Proposed Rule 6c-10(c), which would allow funds to offer NAV fund shares to broker-dealers who could impose account-level sales charges (based on services rendered) simply shifts complex disclosures from a fund level to an intermediary level. It is not clear how an investor will be able to compare services by intermediaries with individualized menus of services offered by broker-dealers.

Our comments are set forth in more detail below:

1. Rule 12b-2 Does Not Adequately Address which Servicing Fees Are Subject to a 25 Basis Point Cap

The Proposal does not adequately define what legitimate ongoing administrative fees would be subject to the 25 basis point cap, although the Proposal properly states that Rule 12b-2 limitations would not apply to "...expenses that can clearly be identified as not distribution related (*e.g.*, sub-transfer agency fees)" and that those expenses could be classified as "administrative expenses" not subject to the 25 basis point cap."[3] Rather than defining what might constitute "administrative expenses" not subject to Rule 12b-2, the Proposal refers to an interpretive notice issued by the NASD in 1993[4] which included a list of activities outside the scope of the definition of "service fees" in NASD Conduct Rule 2830. Our concern is that the activities listed in the 1993 interpretive notice may not be inclusive of all administrative services that should be excluded from the Rule 12b-2 basis point limitation, especially in light of operational and technological innovations since that time.

We believe that a fund's board of directors should have the ability to determine whether or not ongoing administrative services are distribution related and subject to the Rule 12b-2 25 basis point cap. If a fund board determines that an ongoing administrative service is not distribution related, then a clear description of that service should be included in fund expense tables, and it should not be included in fund expense tables under the general category of "other" expenses.

2. The Proposed Amendments to Rule 10b-10 Would Result in More Complex and Less Understandable Confirmation Disclosures

The Proposal would amend Rule 10b-10 to require disclosure of additional fee information on confirmations for mutual fund transactions, including front end sales charges expressed in dollars and as a percentage of public offering price and the maximum amount of any deferred sales charges expressed at the time of purchase and redemption or sale.[5] Additionally, if the customer incurs any ongoing sales charges or any marketing and service fee (as defined in

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[3] Proposing Release, 75 Fed. Reg. at 47075 n. 153, *citing* Investment Company Act Release No. 16431, Payment of Asset-Based Sales Loads by Registered Open-End Management Investment Companies, 53 Fed. Reg. 23258, 23271 n. 126 (June 21, 1988).

[4] Notice to Members 93–12.

[5] Additionally, the proposed amendments to Rule 10b-10 state that in the case of a redemption or sale of a mutual fund security, the confirmation must include the amount of any deferred sales charge that the customer has paid in connection with the redemption or sale, expressed in dollars and as a percentage of the net asset value at the time of purchase or at the time of redemption or sale, as applicable.

§ 270.12b-2) after the time of purchase, then the confirmation must include the annual amount of the sales charge expressed as a percentage of net asset value, the aggregate amount of sales charges that may be incurred over time, and the maximum number of months or years the customer will incur the ongoing sales charge, along with the following statement (which may be revised to reflect the particular charge or fee at issue):

> "In addition to ongoing sales charges and marketing and service fees, you will also incur additional fees and expenses in connection with owning this mutual fund, as set forth in the fee table in the mutual fund prospectus; these typically will include management fees and other expenses. Such fees and expenses are generally paid from the assets of the mutual fund in which you are investing. Therefore, these costs are indirectly paid by you."

These changes will result in extraordinarily long and complex confirmations, which will likely be expensive to produce and of minimal, if any, benefit to consumers who have already purchased fund shares. Instead, this information should be readily available to customers in mutual fund prospectuses and on the fund company's website in table form prior to the customer's decision to purchase fund shares. The trade confirmation should not be the last resort for disclosing information that should be understood by a customer before purchase of a fund share.

3. The Cost of Mandatory Conversion of Shares Based on a Reference Load Outweighs the Benefit to Nearly All Fund Shareholders Because of the Average Holding Period for the Shares Subject to Conversion

The suggestion in Proposed Rule 6c-10(b) that there be mandatory conversion of shares with ongoing sales charges based on a reference load, does not take into account average holding periods in funds with more than 25 basis point Rule 12b-1 fees. Shareholders in Class C shares, Class R shares and Money Market funds may not, on average, hold shares long enough to benefit from a conversion based on a reference load. We urge the Commission to do more analysis of average holding periods before adopting Rule 6c-10(b).

The Proposal also references the fact that the industry has developed systems for conversion of Class B shares. However, the conversion of Class B shares is based on tracking declining contingent deferred sales charges over time, which is a far more simple process than tracking items such as reinvested dividends and distributions. We join in the concerns expressed with respect to the operational complexity of the Proposal raised in the November 5, 2010 Investment Company Institute's ("ICI") comment letter.[6]

We believe that the operational and technology costs to comply with proposed Rule 6c-10(b) may far outweigh the benefits to retail customers. The requirement to adopt a complex and costly operating structure for a small universe of fund shareholders does not make sense, and may result in fund classes with higher ongoing administrative expenses, which would not benefit retail customers.

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[6] It is also not clear who will have the burden of tracking the individual sales charges – fund companies, broker-dealers, or whether it will be a shared burden.

4. Proposed Rule 6c-10(c) Simply Shifts Complex Disclosures from a Fund Level to an Intermediary Level

Proposed Rule 6c-10(c) would allow funds to offer NAV fund shares to broker-dealers who could impose account-level sales charges (based on services rendered). This rule proposal would take away the important protections and oversight of fund board independent directors. Instead, retail investors will be left to fend for themselves in a far more complex environment in which it will be difficult to compare and contrast individualized menus of services and fees offered by different financial intermediaries.

Proposed Rule 6c-10(c) simply shifts disclosure from fund prospectuses (subject to oversight by a fund board) to financial intermediaries. The impact of this shift is that uniform services could be described differently from one financial intermediary to the next, making it next to impossible for a consumer to evaluate those services and select one intermediary over another.

Conclusion

We support simplifying the disclosure of fees and expenses deducted from fund assets, including compensation received by intermediaries for selling fund shares. However, in light of the concerns expressed in this letter as well as in other comment letters with respect to the Proposal, we suggest further study of the costs and complexity of the Proposal.

Please let us know if you have any questions about this letter.

Sincerely,

Nina Schloesser McKenna
General Counsel