Motley Fool Asset Management

September 23, 2010

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Mutual Fund Distribution Fees (File No. S7-15-10)

Motley Fool Asset Management, LLC applauds the Securities and Exchange Commission for undertaking the effort to make 12b-1 fees more transparent and for setting forth a framework to limit the total amount that mutual fund investor returns can suffer from these fees. Although we believe the proposed rules do not go far enough in limiting these fees, and fear that entrenched industry interests may fight to water down these regulations, we are also hopeful that this will be a successful first step toward eliminating 12b-1 fees and ongoing sales charges, which impose costs on fund shareholders that are not offset by corresponding benefits.

Motley Fool Asset Management, which manages the Motley Fool Independence Fund, was launched in 2008 by The Motley Fool. Founded in 1993 in Alexandria, Va., by brothers David and Tom Gardner, The Motley Fool is a multimedia financial-services company that reaches millions of people each month through its website (Fool.com), books, newspaper column, television appearances, and subscription newsletter services. The Motley Fool has a long history of advocating on behalf of the 63 million American shareholders of public companies. In the past, The Motley Fool and its personnel have been asked to provide their expertise, including through service on the SEC's Committee to Improve Financial Regulation, as well as via testimony on the need for greater transparency in mutual fund fees and on the collapse of Enron. Today, for the first time, Motley Fool Asset Management enters the arena as an industry participant.

Like a substantial minority of the players in the industry, we at Motley Fool Asset Management impose no 12b-1 fees on our investors. While there is no doubt that this choice limits our ability to market our fund to as many potential shareholders as possible, we take a cue from former SEC Chairman Arthur Levitt, who wrote in his book, *Take On The Street; What Wall Street and Corporate America Don't Want You To Know; What You Can Do to Fight Back,* "You should avoid owning shares in a fund that charges [12b-1] fees."

Levitt, whose tenure at the SEC included work on many important regulations to help individual investors become better informed about their investments, pointed out explicitly in his book that 12b-1 fees simply do not serve the needs of a fund's shareholders. The era of 12b-1 fees in the mutual fund industry has coincided with significant inflows into mutual funds and the fees certainly have helped many mutual fund companies to aggregate assets. However, too many mutual funds have grown assets dramatically while choosing not to pass along the savings that economies of scale should have allowed.

We feel that the mutual fund industry does not need, and should not have, obscure, opaque, fine-print rules that permit funds to impose direct and unendingly recurring sales costs on those who have already made the responsible decision to save and invest their money. The past 10 years have shown that even during long periods of meager (if any) returns to shareholders, the American public is well-aware of the benefits of investing their money in mutual funds, and these instruments will continue to thrive. In part this is because investors can find virtually all the information they need about mutual fund returns, philosophies, and expenses among the vast amounts of information available through the Internet. Investors and potential investors simply do not need to be paying a significant chunk annually of their potential returns to help the fund find new assets.

We at Motley Fool Asset Management have chosen not to utilize 12b-1 fees on three principal grounds: (1) in no way do they benefit existing shareholders (the *owners* of the fund), (2) they are insufficiently transparent to fund shareholders, and (3) they hit all shareholders of any fund share class that imposes them, potentially for years after the shareholders make any investment in the fund, even those who don't benefit from the advice that the 12b-1 fees are intended to provide.

That we have chosen not to utilize these fees does not mean that we are blind to the possibility of their appropriate use in the industry. Some investors prefer guidance from financial advisors, and benefit from having contact with a professional who can guide them in rebalancing their portfolios. We note that the financial advisors clearly lay out the arguments in favor of these fees. However, we agree with the Commissioner's proposal that too many investors are unaware of the amounts they must pay in annual 12b-1 fees, and that there must be an absolute limit on the sales charge an investor pays as a result of a one-time purchase of fund shares.

There are two major points of opposition so far offered to the Commission's proposal. The first is that without 12b-1 fees in their current form, some financial advisors might start refusing to service small account holders altogether. The second argument is that the SEC, while of course well-meaning, is simply naïve in thinking that any change to the current structure can result in cost savings to investors. According to this argument, some financial advisors will guide their clients into even more expensive "wrap accounts" if they are prevented from levying the unlimited, ongoing sales charges currently available.

While we have no doubt that every attempt to improve the regulatory system causes some unintended consequences, we are more optimistic than some that these proposed regulations will indeed lead to an improved and lower-cost environment for investors. The simple fact that there will be no automatic mechanism for a long-term mutual fund shareholder to pay 10, 20, 30, or more percentage points in sales costs over the lifetime of a one-time investment has to accrue to the benefit of the shareholder.

We say all this from the perspective of an asset management company that currently has a competitive advantage over those funds that impose 12b-1 fees on their shareholders. We recognize that having lower-cost competitors will not help us grow assets in our own mutual funds. Nevertheless, we fully support the SEC's efforts in this proposal to help control these sales costs, and ask that, if anything, the Commission go further in its efforts to curtail these fees and make the permanent curtailment of ongoing sales charges -- however they are called -- its ultimate goal.

Sincerely,

William S. Barker, CFA
Senior Analyst for Equity Research
Motley Fool Asset Management