To the Commissioners of the SEC

RE: File S7-15-10
12b-1 fees- With specific reference to the "C" share class only

While the elimination of the C share class of mutual funds may be a foregone conclusion, I would like to add some commentary.

I respectfully note that none of you (ie current SEC commissioners) indicate in your on-line biography's that you have ever worked as a financial advisor, selling the kind of mutual funds you are passing rules on, to the kind of typical investors you are most trying to protect. Only one of you note that you have any of the required licenses to make such a sale and that was because he was at an executive level of a broker/dealer.

I further note (footnote 140) of the 1500 comment letters – over 1000 were "form letters". Only 10 letters from investors were received. There were some letters from "financial planners", but we cannot call ourselves "financial planners". And firms like I work for do not encourage us to write (or we cannot use their name lest you think we are writing on behalf of the firm). I wonder how many comments were submitted by true "wire house" financial advisors/brokers who actually build a business around "C" class shares.

My commentary runs <u>exclusively and only</u> to the "C" class of mutual fund shares. The table on page 170 of your report shows that assets of funds where the 12b-1 fees exceed 25bps, are only 7% of total fund assets. I can only assume that that 7% also includes the remaining B class shares, still paying 1%, and some of the R class shares paying more than 25bps. **If correct, C shares are less than 7% of the total fund asset universe**.

Let me first cite for you some of my "credential's" in making some of my comments. I was born into a third generation, Mid-west banking family and started working at the family bank at a very young age. From that early date, I was taught that serving the client and doing what was right was the most important aspect when dealing with the client.

After graduating college, I worked as a credit and lending officer, for 10 years at Bank of America, NT&SA and 5 years at Shawmut Bank of Boston NA, the two jobs separated by earning an MBA at The University of Chicago Booth GSB in finance and accounting.

I then spent 5 years as a small business consultant, before being hired by one of my clients to do mergers and acquisitions and corporate finance in industry for about 8 years. In 1998, I returned to the financial services industry, working in the investment side of the "financial house", working for the securities subsidiary of a major insurance company. That securities unit was then merged with another bank's securities unit. During the financial problems of 2008, that bank was then taken over by another bank.

It is also important to note that in my job, I am not paid a salary. In fact, from my point of view, I actually have to **pay my employer** over 50% of what I am able to generate in the form of fees, commissions, and 12b-1 fees (which are credited to the advisor). If I do not generate fees and commissions, I earn no income.

When I sell a mutual fund, I know I could typically make almost 500% more income per sale if I used an A or B share class. When I sell a C class share, I know it will take me 5 years of keeping a client happy with my services and advice to earn what I would have, had I chosen to recommend the A or B class.

Let me put this in dollar context for you. If a financial advisor sells $10 million in new A or B (fully loaded) class shares, he or she (and their firm) can earn, "gross", about $550,000-575,000, of which typically more than half goes to the firm. The remaining (approx) $250,000 or so goes to the advisor. Selling a variable annuity can usually earn the advisor as much.

However, if that same advisor sells the same $10 million in C shares, the "gross" to the firm is only $100,000, of which a little less than $50,000 finds its way to the advisor. The advisor has to continue to keep and service the client for over 5 years to begin to catch up in earnings with the advisor who sold the A or B share.

This is probably why (according to the statistics your reports cites) C shares are less than 7% of the total fund universe.

Nevertheless, let me tell you why I (and other advisors I know) choose to recommend the C class shares as a major component of how I (and we) build our business.

My goal and belief is, that as a financial advisor, I should be able to earn about 1% in "gross" revenue for assets that I manage/advise, even if household assets are less than $100,000. The C share allows that to continue on an ongoing basis- as I provide ongoing advice, guidance, and education, which often may be of a nature that does not generate a new trade or fee.

Note, our firm does not really not allow us to charge pure advisory fees, say on an hourly basis, except in rare and unusual circumstances. However, some of the non-compensated advice we provide includes savings strategies, asset allocation, college education and financial planning, estate planning, retirement income planning, helping set other financial goals and objectives and numerous other functions of the clients financial life. While we are not allowed to give tax advice, we generally alert and make clients aware of issues that need professional tax advice, concerning asset strategies or investment issues.

I never liked selling the B share class and I think more often than not, they were sold for the wrong reason. Although the B share class has pretty much been phased out, in some cases, it may well have been the best share class for some investors. But, I suspect, more often than not, it was "recommended" by advisors because it paid the advisor a 5% commission, which the client did not see or perhaps fully understand or comprehend.

More importantly, to my way of thinking, was that if an initial investment of $10,000 invested in a B class purchase, subsequently dropped to $5000 in current value, and there were no other funds in the fund family that appealed to the investor or advisor, clients did not seem to remember (and in some cases were probably never told) that the back end fee, which they didn't see, would be charged on the original $10,000 investment, not the $5000 value the fund had fallen to---adding "insult to injury".

The A class share takes the commission money upfront- which many investors do not like. Some people think they should be able to get their advisor to buy them "no load funds", complete with a financial advisor to advise them, who would be willing to work for free. Financial commentators in print, on TV, or on the radio often seem to suggest, or tell the general public they should avoid funds with sales "loads" and or high expenses, as if sales loads (and the funds that came with them) were bad things to be avoided.

Advertising, articles and public investment commentary have made it seem like investing is easy and that anyone could do it. During the late 1990's, ads by some financial services companies even proclaimed that anyone willing to pay $8 per trade could "show that lily- livered stock market who was boss", have "money coming out the wazu", and/or even buy and own their own getaway island. Since then, I suspect some people have found out that it might have been a mistake to confuse a bull market for investment savvy, and that it might actually take some real work and effort to build a portfolio with some care and thought for the future.

Since virtually all C class shares (at least all that I know about) pay the advisor (me) the same 1% 12b-1 fee at the time of sale and the 1% annual trail (paid quarterly after a year), I have no hidden agenda in picking one fund, or one fund family, over another.

My chief interest is picking among the best performing funds in each asset category (large, mid, small, growth, value, international, etc) that I can find. My goal is to both grow the asset, on which I will be paid a higher 1% and to keep the client happy so they will refer me to family and friends. I don't buy funds I don't think I can hold for a year.

I focus on total performance, net of **all** fees, including net of the 12b-1 fees. In almost every asset class, I can find C Class shares that out perform many of the "no load funds". Assuming it is OK to be paid a fee for advice and guidance, and if adding a 1% "wrap fee" to no load funds is reasonable, I can usually find C share class funds that match, if not out perform, the "no-loads" (including fee).

One of my "elevator" speeches I have, when people ask me what I do, is that I am a "financial educator". When asked what that means, I tell them that I spend a lot of time with my clients to explain the market, how it works (and sometimes doesn't work). I can spend an hour or more with a client talking about asset allocation and the need for diversification before making a $5,000 or $10,000 fund sale, which would then generate $50 or $100 of gross revenue on a C share (not the average $250 or $500 I would get on an A or B sale), and from which I have to give my employer half, before I get anything.

When it comes to financial issues and the dynamics of the financial markets, I think most investors, and the public in general, are undereducated. (And based on some questions posed by some members of congress in televised hearings held in the last year or two, I think more education is needed there as well.) One of the downsides of this lack of understanding by clients is the making sub-optimal decisions that might, in the long run, actually be bad for the client.

While I think disclosure is good, I have come to believe that too much disclosure actually defeats the purpose intended. In the years I have been reading financial statements and reports, disclosures, merger proposals, etc, I have watched them grow to be hundreds of pages of disclaimers, commentary, numbers, charts and graphs. It can be too much to be fully understand.

Well meaning intentions, codified into rules and regulations, have, in my opinion, resulted in companies providing significantly more disclosure---far more than the average investor can understand or absorb- which has ultimately led to “information overload”. This information overload serves to cause the typical investor we work with to place more reliance on the financial advisor-me- which is why we spend more time educating, helping and hand-holding with clients.

Simpler annual reports that could tell a short, concise story about what was happening at the company, have been replaced by huge 10K’s that go on and on with far more data than can be absorbed by the typical investor. Multiply this by getting reports when monitoring for hundreds of stocks, funds etc.

In times both past and present, I have, and continue to use a “wrap fee” approach for clients. (Note -- at my firm, any fund in wrap fee account that has 12b-1 fee were/are automatically converted to investment class shares- or the client would be refunded the 12b-1 fee**—I was never paid both a wrap fee and a 12b-1 fee**).

For clients in “wrap fee” platforms, I could spend even more time reviewing their quarterly performance reports and providing even more education. The down side of a “wrap fee” approach is, unfortunately, in a down market, it was that it sometimes was the same people who needed the most education and hand-holding who would be reminded of, and then resented, paying a quarterly fee, when they saw the value of their funds decline (even if the decline was less the market in general). Here again, seeing that quarterly fee caused some to make sub-optimal decisions.

And if a recommendation to a wrap fee client ended up to be to “stand pat and stay the course” for the time being, why should they pay us for doing “nothing”.

It is for many of these reasons, the C share class has generally become the mutual fund share class of choice. As long as I am serving and keeping a client happy, and growing the asset, I would argue that there should not be a limit on how long I should be paid the 12b-1 fee. I have clients that I have now served for more than 10 years.

To say that I should not be paid after 5-6 years of providing advice and guidance would seem to penalize me for holding on to top performing fund for longer than 5 years and seem to push me to make a change that might be less than optimal, so I can continue to earn a new set of fees. Certainly, this is also not in the best interest of the client. Even after 5 to10 (or more) years out, my objective is and should be to do the best I can for the client and hopefully continue to be paid for it.

It should be up to the client to "fire" me, not to you to punish me by taking away my income for continuing to hold a winner after 5-6 years. If I underperform or disappoint, a client can ask me to sell all C shares, withdraw and transfer the money to a "no load fund" at a Vanguard or somewhere and stop paying the 12b-1.

Change the name of the 12b-1 fee or call it something different, but leave the mechanism there so in selling what is now a C shares, by a financial advisor who is providing advice and service.

Here is an alternative suggestion
Eliminate every share class BUT the C class.

If an advisor runs out of an opportunity to make a new commission (and a 25bps "trail" doesn't really cut it while still providing service and advice), there is an incentive to "sell" the client a new investment simply to generate a new fee.

Whenever I get a request to transfer an account to another advisor, especially when the request is accompanied by an order to sell everything and transfer only cash, I always envision the new advisor is looking to sell a whole new line-up of investments that will generate some form of (approx) 5% upfront fee. Even when assets are transferred "in-kind", that thought crosses my mind.

Oftentimes, I send the client a final updating performance report, showing how funds have performed, both outright, and respectively within their asset category. If the performance is good and the investment still fits the need, hopefully, the client will not be pushed or cajoled into buying new mutual funds merely to generate a new (5%) commission for the new broker (and firm).

Putting all mutual fund 12b-1 fees on a flat 1%, and eliminating that large upfront fee that an A or B share has, will go farther to push financial advisors to spend more time to ensure that clients get the best possible combination of funds that will rise in value (or not fall as far), hence getting paid more (or losing less) in the long run.

Providing hugh one-time, upfront payments, paid to advisors, does not encourage advisors to provide ongoing support, advice, guidance, monitoring, hand-holding, and general service support that a C share demands. Since they have been paid, they really have no more "skin in the game".

If the advisor gets the up front fee, it does not financially hurt if the fund goes down in value. However, if the C share fund goes down in value, the subsequent fees paid to advisors on a C share also go down. This is yet again an incentive for the financial advisor to do the best they can for a client.

Fund houses can track how funds are assigned to financial advisors, Should a C share no longer be assigned to a financial advisor, or is sold directly by the fund house with no advisor attached, the 12b-1 fee can be reverted back to the investor.

Please understand that I am submitting this as a personal comment. It has not been reviewed by, looked at, or copied to my company (which is why I do not use their name here). One of the reasons you got so few financial advisors comments (and a 1000 of those which did get appeared to be form letters) is that we are not encouraged to provide these kind of responses or comments.

From what I have seen, there is an increasing base of newer financial advisors that really care that their clients get the best possible lineup of fund investments. We do not sell-- or charge-- large up front fees. We want to build a growing base of clients who do well and give us an opportunity to earn more as we succeed. Given the level of financial education of the populace, wrap fee platforms, where the client is “slapped in the face” with a quarterly fee in a down market, can lead to sub-optimal decisions to sell at the bottom of the market.

Disclose to the client the 1% fee, by all means, but leave it as a net reduction of performance, as the C class share is shown and compared now.

I remember an interesting paper I read in graduate school. It confirmed that no matter how complicated you made an incentive bonus program, affected people would figure out how to “work” the system. Hopefully, we learned the weakness of the large “up-front fees- no skin in the game” approach of mortgage brokers during the recent mortgage meltdown.

Eliminating any large upfront payment on ***all C share*** program will encourage more financial advisors, who really want to help and service a growing group of investors, with advice and guidance, over generations. Eliminating every class of shares **but C** could go a long way to weed out those financial advisors (and firms) who only want the “quick kill” of the upfront payout and move on to the next client.

Advisors who truly want to help and provide ongoing advice to parents, their children and earn a continuation on to their grandchildren, are happy to build around C shares. We will be content to serve and wait for the growth and prosperity of our clients **<u>before</u>** we do well ourselves.

Respectfully submitted,