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SAMUEL L. HAYES, III |
JACOB H. SCHIFF PROFESSOR OF INVESTMENT BANKING, EMERITUS

July 12, 2007

Mr. Christopher Cox, Chairman
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Dear Chairman Cox:

I am writing in connection with the recent Court of Appeals decision vacating provisions of rule 202(a) (11)-1 which appears to outlaw the provision of investment advice and brokerage transaction services based on a periodic fee, rather than in exchange for commissions paid when transactions occur.

I was a member of the SEC's Tully Committee which, in 1994, studied broker compensation arrangements and formulated a set of "best practices" to guide the brokerage industry in its accommodation of the needs of retail investors. We concluded that there was great merit in offering a variety of payment arrangements between a retail investor and his/her account executive, depending on the client's needs. One of the most often heard criticisms of the traditional brokerage commission form of compensation has been its dependence on a transaction taking place. Oftentimes, the best service that an account executive can give to a client is to NOT make a transaction. Yet, in that event the account executive earns no income at all.

A periodic fee-based compensation arrangement removes the (often perceived) incentive for the account executive to create transaction activity in a client's account in order to generate commissions for the brokerage firm as well as for the account executive. A fee-based compensation arrangement allows the account executive to think about the longer-term best interests of the investor without having to weigh that against the benefit that would accrue to the broker and his firm from creating an immediate cash commission.

The Tully Committee was composed of some very thoughtful people (including long-term investor Warren Buffett) and spent considerable time examining the relative merits of different forms of compensation arrangements with brokers. While a fee-based arrangement is not the best option for all retail investors, it is a valuable alternative for a number of them.

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I hope that the Commission will take action to preserve the fee-based arrangement as one option which investors could elect. That action will serve the long term best interests of retail investors as a group.

If there is any way I can be of further assistance in this matter, please don't hesitate to be in touch with me.

Sincerely,

Samuel L. Hayes, III

Samuel L. Hayes, III
Jacob Schiff Professor of Investment Banking Emeritus
Harvard Business School

cc: Daniel P. Tully, Chairman Emeritus
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