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Liggett Vector Brands Inc.

VIA EMAIL
rule-comments@sec.gov

February 2, 2004

Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609

Re: Comment on proposed amendment to rules governing pricing of mutual fund shares; File No. S7-27-03.

Dear Mr. Katz:

As an employer who sponsors a qualified retirement for our employees, we are writing to express our concern about the impact on millions of participants in qualified retirement plans of the proposed "hard 4 p.m. Eastern Time (ET) close" contained in Release No. IC-26288 (proposed amendment to rules governing pricing of mutual fund shares).

Imposition of a hard 4 p.m. ET close will significantly burden employer-sponsored retirement plans and result in delayed trading for plan participants compared to other investors, resulting in an uneven playing field.

Millions of retirement plan participants may be relegated to next day trading if transactions must be provided to the mutual fund itself (rather than a third-party intermediary) by 4 p.m. ET. Participants typically place their retirement plan trades through recordkeepers or third party administrators (TPAs) that perform significant administrative activity after trades are closed to participants. Under the proposed rule, the best case scenario would result in a trading deadline for participants as early as 10 a.m. ET (or 7 a.m. PT) in order to meet a mutual fund's hard 4 p.m. ET deadline.

Because qualified plans are subject to a myriad of statutory and regulatory requirements, the recordkeeper or TPA performs a variety of functions after the trades are closed to participants. These functions, which currently occur after the 4 p.m. close, include gathering transfer instructions from different sources such as participant web sites and telephonic voice response systems, and running various statutory and regulatory checks and edits on the information such as determining the validity of transfer requests, reviewing loan and distribution requests and verifying cash availability for contributions. Due to the open structure of the investments in many plans (participants can trade in and out of funds across several different mutual fund companies), the recordkeeper or TPA also needs the funds' calculated NAV to process a trade on the same day that involves multiple mutual funds. Although the NAV is provided after the 4 p.m. close, recordkeepers and TPAs can make those calculations with the NAV post 4 p.m. under the present system as long as the trades have been submitted to them by 4 p.m.

Under the current system, recordkeepers and TPAs enter into agreements with various mutual fund companies, allowing the recordkeepers or TPAs to take trades from participants as the mutual funds' agent until the 4 p.m. deadline, and then provide trades to the mutual fund at a later deadline.

Some have argued that the trading delays for retirement plan participants caused by the hard 4 p.m. close do not significantly disadvantage these participants because their investments are long-term investments for retirement. However, long-term investors are not necessarily committed to a particular fund for the long term. Many investors, inside and outside of retirement plans, perform strategic asset reallocation periodically and those investors justifiably expect same day trading. The length of one's investment time horizon is not a valid reason to purposely disadvantage that investor.

Studies have shown that being out of the market for even a few days periodically can result in a decrease in returns. A major world event could significantly affect the market after the closing bell has rung for plan participants.

These adverse consequences are unnecessary and can be avoided while addressing the late-trading issues through a technological solution. The solution proposed by the U.S. House of Representatives in the Mutual Funds Integrity and Fee Transparency Act of 2003 (H.R. 2420), which passed the House in November 2003 on a 418 to 2 vote would address many of the mutual fund industry problems including late-trading issues.

H.R. 2420, as passed by the House, has specific language designed to address the retirement plan industry and other third party intermediary concerns. The language directs the Commission to issue rules to prevent after-hours trading but states the rules are to include an exception for broker-dealers, retirement plan administrators and other intermediaries if the trades are collected by the intermediaries using procedures:

- Designed to prevent the acceptance of trades by such intermediaries after the time at which net asset value was determined, and
- Subject to an independent annual audit to verify that the procedures do not permit the acceptance of trades after the time at which such net asset value was determined.

Technology exists today that will time stamp trades placed with most recordkeepers and TPAs. These systems, which could be subjected to outside audit, could be modified quickly to ensure that after-hours trading is extremely unlikely.

We would urge you to consider and adopt these technology solutions that would address the legitimate concerns surrounding late trading without relegating plan participants to a second class investor status.

Sincerely,

Mike J. Kelly
Director of Human Resources
Liggett Vector Brands Inc.