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Mr. William H. Donaldson, Chairman  
Securities and Exchange Commission  
450 Fifth Street NW  
Washington, DC 20549

OFFICE OF THE  
CHAIRMAN

Dear Chairman Donaldson:

I am opposed to imposition of a "hard close" for settlement of mutual fund orders for participants in any defined contribution pension plan. The imposition of a "hard close" would virtually eliminate same day settlement of participant directed trades received prior to market close.

As a benefits consultants we work with many recordkeepers for our clients' 401(k) and profit sharing plans. These recordkeepers have systems and controls in place to enforce the market close for same-day transactions. They transmit these trades in the hours following the market close. We believe it is unfair to penalize the participants in our clients' defined contribution plans for abuses that were committed by others. The imposition of a "hard close" rule would force most participants to have a lag of a day or more to settle fund trades which are now handled overnight.

We also encourage the SEC to adopt a uniform definition of "market timing." Our clients' plans currently utilize investment options from a number of different mutual fund companies. Without a common definition of "market timing", participants may be confused about the different rules applicable to different funds. In addition, our participants may face increased administrative fees or restrictions if recordkeepers have to enforce multiple definitions of "market timing" among different funds.

Employer sponsored defined contribution plans are popular with employees who use their plan as the primary supplemental retirement savings vehicle. Technological advances in recent years have enabled the recordkeepers to offer small investors many of the same opportunities available to larger investors, and at a reasonable cost. The imposition of a "hard close" on defined contribution pension plans would be detrimental to millions of small investors who enjoy the convenience of current trading practices.

I urge you to amend the proposed rule to allow the pension plan recordkeepers to enforce the market close on plan participants and still have the necessary time to transmit orders on a same day basis.

Sincerely,

*Mary K. Whaley*  
Mary K. Whaley, CEBS, RHU, HIA  
Benefits Consultant

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INSURANCE