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MassMutual
FINANCIAL GROUP
THE BLUE CHIP COMPANIES℠

VIA EMAIL

rules-comments@sec.gov

February 3, 2004

Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609
Attention: Jonathan G. Katz, Secretary

Re: File No. S7-27-03-Amendments to Rules Governing Pricing of Mutual Fund Shares

Ladies and Gentlemen:

We are pleased to respond to Release No. IC-26288 (the "Proposed Amendments"), in which the Securities and Exchange Commission (the "Commission") solicited comments on its proposed amendments to the rule requiring forward pricing of redeemable securities issued by registered investment companies. We commend the Commission and its staff for their expeditious response to the recent late trading scandals, and we appreciate the opportunity to comment on the Proposed Amendments.

MassMutual Financial Group is a global diversified financial services organization comprised of member companies (including OppenheimerFunds, Inc., one of the most respected mutual fund companies in the U.S. and David L. Babson & Company Inc., one of the oldest U.S. investment firms) with over $280 billion in assets under management. As an enterprise with more than $140 billion in mutual fund assets, we fully support the Commission's goal of eradicating late trading abuses. However, we believe that the Proposed Amendments will penalize innocent investors, particularly those in 401(k) plans. We strongly encourage the Commission to adopt an alternative approach to eliminating late trading that protects all investors without inflicting a competitive disadvantage on some.

The Proposed Amendments will needlessly harm investors. The Proposed Amendments address late trading abuses by requiring mutual fund trade orders to be received by (1) the mutual fund, (2) the fund's principal transfer agent, or (3) a registered clearing agency, by the time set for calculating the fund's net asset value (NAV) in order to receive that day's price. Most funds calculate NAV when the major U.S. stock exchanges close at 4 p.m. EST. We believe this proposal would disadvantage investors in a number of ways:

- Under the Proposed Amendments, intermediaries such as broker-dealers and retirement plan administrators would have to establish earlier cut off times for their customers in order to process mutual fund orders and transmit them to the fund, transfer agent or clearinghouse by 4:00 p.m. EST. Due to a myriad of statutory and regulatory requirements to which 401(k) plans are subject, this cutoff time could be as early as1:00 p.m. EST. (In the 401(k) context, these processing functions, which currently occur after the 4 p.m. close, include gathering transfer instructions from different sources, and running various statutory and regulatory checks and edits on the information, reviewing loan and distribution requests and verifying cash availability for contributions.)

- Investors who invest in mutual funds through intermediaries, particularly through retirement plans, will lose the ability to place or change an order because of world events or other market news that occurs prior to the market's close but after the premature cutoff at the intermediary level. The fact that many retirement plan investors have a long-term investment horizon does not render those investors insensitive to market-moving events. All other things being equal, a shorter trading day for retirement plan investors places them at a disadvantage relative to mutual fund investors who, by virtue of investing directly with the mutual fund, have more trading hours to make investment decisions.

- Trades in 401(k) plans involving multiple funds will take at least two days. Under the current system, record keepers enter into agreements with various mutual fund companies, allowing the record keepers to accept 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. Under the Proposed Amendments, a trade involving multiple fund families that is placed after the record keeper's early cutoff deadline would take several days to execute. Suppose a participant places an order after the plan's 1 p.m. cutoff on Day 1 to sell Funds A and B and use the proceeds to buy Funds C and D. The sale order can't be placed until Day 2; the purchase order for Funds C and D can't be placed until Day 3 as the proceeds from the sale of Funds A and B are not known until after the market's close on Day 2. While we commend the Commission's proposed expansion of the definition of "order" to include a direction to purchase securities of a fund using proceeds of a contemporaneous order to redeem a specific number of shares of another fund, we note that the proposal would not encompass trades involving multiple funds.

- The proposal will alter the competitive landscape of mutual funds and 401(k) products. By forcing intermediaries to establish earlier trading cut-off times in order to complete the processing of fund orders, the Proposed Amendments will disfavor mutual funds that rely on intermediaries for distribution. And it will encourage 401(k) sponsors to invest with a single, large fund complex in an effort to avoid the use of any intermediary in effecting mutual fund transactions for plan participants.

- At a minimum, the Proposed Amendments will require substantial systems modification costs for plan participants. Many plan record keeping systems use daily price information in performing the processing of investment instructions before trade orders are generated for execution. If plan orders for mutual fund investments must be provided to the fund before 4 p.m., these complex systems must be reconfigured to process transaction instructions without price information. Ultimately, the costs to reconfigure plan record keeping and trade processing systems will be paid by participants, directly through record keeping charges or indirectly through additional fund-level charges.

- Investors will be confused by different cut-off times for trading mutual funds via an intermediary or directly with the fund company; different cut-off times for mutual funds as opposed to other types of investment products; and different cut-off times for the same mutual fund depending on whether the trade is placed in the context of a retirement plan or a regular account.

A better solution exists. The Proposed Amendments appropriately provide an exception that would permit conduit funds – entities that are registered with the SEC as investment companies – to accept mutual fund trade orders on the same terms as the mutual funds themselves. This conduit fund exemption is predicated in part on the fact that the conduit funds are registered with the SEC and thereby subject to its inspection and compliance requirements. We strongly encourage the SEC to preserve this exemption and to extend its logic to its efforts to eradicate late trading by intermediaries. More specifically, unregistered intermediaries that accept mutual fund trades should be subject to SEC inspection as agents of those SEC-registered mutual funds. Unregistered intermediaries should be required to use verifiable technology that can lock down the accuracy of every transaction and the time it was accepted. In addition, these intermediaries should be required to institute the following programs and procedures:

- comprehensive policies and procedures designed to prevent or detect late order trading like electronic audit trail for mutual fund orders documenting the actual time of receipt of an order from the client, and the time of any subsequent cancellation;

- compliance surveillance of mutual fund orders, including prominent display in daily reports to the chief compliance officer of all trades modified after the daily cut-off time;

- quarterly reports by the chief compliance officer to the intermediary's board on the volume of trade order modifications; and

- independent SAS 70-type audit review of late-trade prevention and detection procedures.

In short, technology and compliance safeguards coupled with SEC oversight of unregistered intermediaries can effectively addresses late trading abuses while maintaining a level playing field for all types of investors in mutual funds.

Finally, we note our concerns with an alternative proposal suggested by some in the industry to have mutual fund trades processed through a registered clearinghouse. Orders submitted to the clearinghouse by the 4 p.m. close would be processed at that day's price. The trade information would be provided in raw data form prior to 4 p.m., followed by more specific information when NAVs become available. While this proposal could shorten the early closing disadvantage for those who invest in funds via intermediaries, the competitive disadvantage would still exist as trades placed directly with mutual funds would not be submitted through the clearinghouse. From the perspective of competition among mutual funds, the clearinghouse proposal, like the Proposed Amendments, would disfavor mutual funds that rely on intermediaries for distribution.

More importantly, as the details of this approach are not well developed at this early stage, its feasibility and costs cannot be properly assessed.

Thank you for the opportunity to comment on the Proposed Amendments. We would be happy to discuss with you our comments or any other matters that you feel would be helpful in your review of late trading issues. Please do not hesitate to contact me (413-744-2865) if you would like to discuss these matters further.

Very truly yours,

Patricia J Walsh

Patricia J. Walsh
Assistant Vice President &
Counsel
Massachusetts Mutual Life Insurance Company

cc:
The Honorable William H. Donaldson
The Honorable Paul S. Atkins
The Honorable Roel C. Campos
The Honorable Cynthia A. Glassman
The Honorable Harvey J. Goldschmid