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FEB 13 2004
OFFICE OF THE SECRETARY

February 5, 2004

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

RE: SEC File No. S7-27-03

Dear Mr. Katz:

I am writing to voice my opposition to the proposed "hard 4:00 close" rule contained in the above referenced SEC file number. This proposal really discriminates against the average investor that works through an intermediary particularly those whose 401(k) money is invested through an intermediary and cannot move it. It appears to me that much of the scandal that gave rise to the proposed rule revolves around stale pricing which results in a rather miniscule problem for investors in general. Your proposal would only exacerbate the problem and cause it to affect a far greater number of investors.

I believe that much of the reaction to the scandal is being driven by a lack of understanding about so-called market timing. Not having the time nor the expertise to manage my portfolio myself, I retain a professional manager to manage it using mutual funds. Although this manager is not what you would call an active trader, he uses techniques to mitigate the risk of loss and at times hold positions only for a matter of months. As a result of this technique, my performance has been excellent especially as it pertains to avoiding risk. This rule will make it much more difficult for my manager to be successful on my behalf.

Before making this decision, you should take a look at how much money the average 401(k) would have lost in the last few years if the investor who decided to move from a stock fund to a money market fund on one day was forced to accept the next day's closing price. I am sure you will find many days where that would be very costly.

Mutual funds were not created by the government to force people into a "buy and hold" strategy. They were created to allow the little guy to be invested in the market without having to be an expert in stock picking and to enjoy the liquidity that, up to this point, has been inherent in these vehicles. Moreover, 401(k) plans were created by the government to provide an incentive to put money into savings and keep it there. Those of us who actively manage our funds or retain managers to do that are saving just as much as those who just buy and hold. Many of us believe, however, that we have done much better than those who simply buy and hold. The so-called "hard" 4:00 close clearly discriminates against us in that it lessens our liquidity versus other investors. I therefore hope you will reconsider this subject and decide not to adopt this unfair rule.

Sincerely,

Rick Kabaker

Richard A. Kabaker