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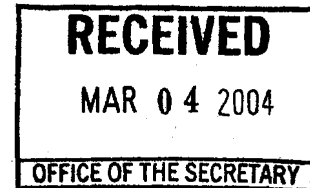
Mr. Paul F. Roye
Director
Division of Investment Managemeny
U.S. Securities & Exchange Commission
450 Fifth Street, NW
Washington, DC 20549



Re: **Pending mutual fund legislation**

Dear Mr. Roye:

I am an independent mutual fund director and chairman of the Denver-based Oppenheimer Funds. Our 44 funds manage $75 billion for 5 million shareholder accounts.

During the past few months, my colleagues and I on these fund boards have learned with mounting indignation that some mutual fund industry executives and employees have violated the trust placed in them by shareholders. We deplore such wrongdoing. Those who violate legal or ethical standards must be held accountable.

We also appreciate efforts by the SEC to review existing legislation and regulations to determine whether additional safeguards are needed to protect shareholders. My colleagues and I are grateful for the attention being given to this matter.

At the same time, however, we are concerned that a number of pending regulatory and legislative proposals go well beyond correcting abuses which have come to light. Some suggestions entail costly and counterproductive regulations that will harm our shareholders.

Based on our experience as independent fund directors, we believe the Commission and Congress should evaluate pending proposals based on the following considerations:

1. More than 54 million American families own mutual funds in 95 million accounts. These shareholders are invested in eight thousand funds with assets totaling approximately $7 trillion.

2. Mutual funds have been and continue to be a powerful engine for economic growth and wealth creation for American families.

3. Mutual funds are the primary investment vehicle for middle and low-income families. Wealthy investors have access to many different kinds of investments and a wide range of financial advice. But for most families, mutual funds provide skilled, professional investment management that would not otherwise be readily available to them.

4. Although instances of misconduct by mutual fund personnel have been widely publicized, recent sensational news reports should not obscure the tradition of honorable dealing and high ethical standards for which the industry has long been recognized. Almost all of the 456 thousand men and women who work in the mutual fund industry are decent, hard working and honorable. They have served shareholders with dedication and expertise.

5. The mutual fund industry is already heavily regulated.

6. Proposed reforms should be carefully vetted to weigh costs against benefits. Although we do not purport to know the extent of investor losses as a result of misconduct by mutual fund employees, various estimates run from tens to hundreds of millions of dollars.

   Nor do we claim to know the exact cost of pending legislation, but we are aware that recent news articles have estimated the cost at more than $1 billion in one report, and 5-10 bps of total assets in another article.

   We cannot vouch for these numbers, but we recommend caution to assure that new "reforms" do not prove to be more burdensome and costly than the abuses they are intended to correct or prevent.

7. Traditionally U.S. regulation of investments and securities has focused on disclosure, leaving actual investment and operational decisions to investors, financial advisors, brokers, fund boards, managers, etc. In general, Congress and the SEC have upheld the idea that sunshine is the best investor protection, and that it is rarely advisable to impose operational requirements on business corporations, mutual funds, etc. The stunning economic record of the American economy strongly validates the wisdom of this approach.

8. The Securities & Exchange Commission is the most appropriate agency to monitor and supervise the mutual fund industry.

9. All of the recent abuses that have been discovered can be readily punished under existing law. Sweeping new legislation is not needed.

10. Finally, we note that all good ideas need not be enacted into law.

    Many interesting and worthwhile proposals have been advanced for improving governance and operational reform in the mutual fund industry. Some of these are well suited for some funds, less so for others. Ultimately, consideration of many of these reforms may be better left to the discretion of fund boards and management. With proper

disclosure, competition among funds is likely to give shareholders a fairer and more efficient outcome than imposing additional supervision on an industry that is already heavily regulated.

With these considerations in mind, we have evaluated several dozen specific provisions of proposed SEC rules and/or pending legislation. Based on our experience as independent mutual fund directors, we offer the following comments and recommendations:

4:00 PM Closing

We **favor** the so-called "soft close" concept which requires strict monitoring of intermediaries to assure that all buy/sell orders are received either by the fund or the intermediary prior to the time funds calculate their net asset value (usually 4:00 PM).

The "hard close" alternative would require that all transactions be received by the fund itself (or its transfer agent or a registered clearing agency) prior to 4:00 PM. This means orders placed through brokers or other intermediaries would have to be cut off several hours earlier to assure receipt prior to 4:00 PM.

The practical result might be that Pacific Time zone brokers would be forced to put all orders received after 9:00 or 10:00 o'clock into the following day's business. So, for some investors, order execution would be delayed for more than an entire business day, hardly fair to such investors.

In our funds, a majority of shareholders place their transactions through intermediaries. So the "hard close" concept would be to the disadvantage of millions of our accounts.

In our opinion, the "soft close", with strict monitoring of intermediaries, assures a level playing field for all investors without implementing the more draconian "hard close."

Market Timing

We **favor** forthright disclosure by funds of how frequently investors will be permitted to trade in fund shares. And we **favor** disclosure of the penalty to be invoked by the fund on those who violate the guidelines.

But we are **against** mandatory restrictions or a one-size-fits-all prohibition on quick turnaround trading. The overwhelming majority of mutual funds are designed for long-term investors with a time horizon of years, not months and certainly not days or hours. Many funds also permit controlled asset allocation programs. But if a particular fund or complex wishes to offer itself to market timers, we see no reason why this should be prohibited, if properly disclosed.

We also favor full disclosure of any trading restrictions funds may place on adviser personnel to limit the frequency of their trades. In general, however, we think such personnel should be subject to the same limitations as other investors.

Governance

In general, we agree with the idea that a super-majority of fund directors should be independent. Most of us therefore **favor** the requirement that two-thirds or seventy-five percent of fund boards be independent.

In addition, we **favor** the proposal that fund board nominating committees be composed of independent directors. (This issue is already largely addressed by SEC Rule 12b-1 which requires that, with respect to all funds with 12b-1 fees, independent directors nominate new independent directors.)

There is some agreement among us that it is usually a good idea for a fund board chairman to be independent. Accordingly, some of us **favor** such a requirement

But others of our board wonder whether this is *always* the best arrangement. Are there not some circumstances in which a chairman who is part of fund management better serves shareholders? And, in any case, why must this be mandated by law? Why cannot this matter, if properly disclosed, be left to the discretion of investors themselves? If they think an independent chairman is a better approach, they will have many funds from which to choose. But if they are indifferent to this issue or, for some reason, think some other arrangement is preferable, why should they not be permitted to invest as they choose?

Financial Expert

We **oppose** the requirement that each board include at least one "financial expert", a provision that will impose a serious hardship on small funds.

Even for large fund groups, such as ours, this requirement is likely to adversely affect our ability to attract "experts" to serve on our boards because of the implication of additional liability attributed to persons so designated.

We **favor** an alternative, which would require disclosure if such a person is a member of a fund board or if such a person is employed as an adviser to the board. This would be consistent with existing Sarbanes-Oxley requirements.

Chief Compliance Officer

We **favor** requiring the Chief Compliance Officer to report directly to the board. We note, however, this is substantially required by SEC Rule 38a-1.

Audit committee requirements

We believe that the proposed audit committee requirements of some pending bills (HR2420 and S1971) should be deferred to the SEC for rulemaking. Some of these requirements already apply to funds under SEC rules adopted pursuant to Sarbanes-Oxley.

Director review of soft dollar, revenue sharing & directed brokerage

Three pending bills establish a fiduciary duty for boards to review soft dollar, revenue sharing and directed brokerage arrangements. We see **no need** for legislation on this matter since, in our view, the law currently imposes the duty on a fund board to carefully monitor the use of fund assets.

Certifications by independent chairman and/or independent director

We are **against** proposals to require various certifications by the fund board chairman and/or independent directors. Such requirements entail too much director involvement in fund management and adversely affect the independence of directors. We believe such certifications should be made *to* the board, not *by* the board itself.

Ethics Code

Our board has a long established code of ethics (as required by Rule 17j-1 of the Investment Company Act) and regularly reviews compliance by board members and management company personnel.

But we are skeptical of requiring that ethics violations be posted on fund websites. Doing so would raise questions of fairness, libel and administrative practicality and entails so many "due process" issues that the result would be to undermine the whole ethics process.

Disclosures

In general, we **favor** disclosure. Truth is user-friendly for our shareholders, and we support giving the public all the facts needed to make good investment decisions.

In reviewing the numerous proposed disclosure requirements, we note that many of the matters included in pending legislation are already required by current SEC and NASD rules and are likely to be enhanced by proposed rules.

Four pending bills require disclosure of the structure and method for determining portfolio manager compensation and the ownership interest of managers. We have no objection to making such disclosures.

We are troubled, however, by proposals to disclose the exact amount of manager compensation. This unnecessarily intrudes on the privacy of portfolio managers and creates a competitive disadvantage for mutual fund companies in attracting and holding managers.

We have no objection to additional disclosure of share ownership by directors, as already contained in the SAI. But the proposal to report if a director "does not" own shares seems to us awkward. On balance, we prefer affirmative, rather than negative, disclosure.

We also wish to point out that increasingly complex disclosure tends to make various required documents difficult to understand and, if carried too far, the purpose of informing investors is actually undermined, rather than enhanced.

Mutual Fund Oversight Board

There has been some discussion of establishing a new Mutual Fund Oversight Board. We are **against** this idea because the SEC already has invaluable regulatory expertise, which any new agency could acquire only over a long period of time.

Moreover, we believe splitting mutual fund regulation from exchange and brokerage regulation will weaken the regulatory framework and result in confusion and fragmentation.

RICO

One pending bill proposes to apply RICO to the mutual fund industry. We are **strongly opposed** to this concept and feel that it is completely inappropriate for the mutual fund industry.

Other issues

As other issues arise during the next few months, please call on my colleagues and me for any information and assistance we can offer. We appreciate your interest in our industry which is so important to tens of millions of shareholders. Many, many thanks.

Sincerely,

William L. Armstrong