MEMORANDUM

TO: Public Comment File No. S7-27-03

FROM: Adam B. Glazer
Office of Regulatory Policy
Division of Investment Management

DATE: October 21, 2004

On October 20, 2004, representatives of The SPARK Institute, Inc. (“SPARK”), the American Society of Pension Administrators (“ASPA”), and Wachovia Corporation (“Wachovia”) met with staff members of the U.S. Securities and Exchange Commission to discuss issues relating to the Commission’s proposed rule amendments concerning the pricing of investment company shares in Investment Company Act Release No. 26288 (Dec. 11, 2003) (“Late Trading Proposal”). The following Commission staff members from the Division of Investment Management attended the meeting: Robert Plaze, Associate Director, C. Hunter Jones, Assistant Director, Penelope Saltzman, Branch Chief, and Adam Glazer, Attorney.

The representatives discussed a new concept in the alternative approach to the Late Trading Proposal described in SPARK’s comment letter. Representatives of SPARK and Wachovia first discussed their alternative approach with staff members at a meeting on April 14, 2004. The alternative approach would allow intermediaries to obtain same-day pricing for orders they receive by 4 p.m. and transmit to fund companies after 4 p.m. as long as the intermediary meets specific requirements, as described in the documents attached to the memorandum to this file dated August 19, 2004. The new concept concerns the application of a sequential numbering system that would apply a sequence number to each set of instructions entered into a fund intermediary’s trade processing system, as described in the attached document.

Attachment

SPARK Solution Enhancement: Sequential Numbering in the Timestamp/Hash

The SPARK Institute has helped to develop a "sequential numbering" concept that would allow verification on a daily basis that all orders for purchases and redemptions of mutual funds submitted by an Intermediary, including a retirement plan recordkeeper, in after-hours trade processing were received before 4 p.m. Eastern Time. The concept uses a simple and readily apparent methodology to verify that there is no "late trading" in connection with orders submitted by Intermediaries on a "real-time" basis. Generally, the concept is as follows.

1. An Intermediary Transaction Sequence Number (TSN) would be created for each Instruction coming into an Intermediary's trade processing system. This TSN will facilitate Instruction monitoring by a third party on a daily basis to ensure that Orders received after 4 p.m. are not included in that business day's Orders submitted to a mutual fund by the Intermediary. The TSN would be a unique and sequential number issued as part of each timestamp/hash. Each Intermediary would have its own TSN counter that would start with the number "1" and increment with each subsequent timestamp/hash issued by that Intermediary.

2. Intermediaries would report to a third party on a daily basis the TSN of the first and last Order accepted prior to the 4 p.m. cut-off for that business day. The next business day's reported trading would have to start with the next sequential TSN (specifically the prior day's last TSN + 1). A gap or overlap in the range of TSN's provided by the Intermediary would be readily apparent and would indicate a potential irregularity that would need to be researched and resolved as follows.

- Each business day, the third party entity that receives the Orders and sequentially time stamped data from the Intermediary will verify that the Instruction number assigned to the first trade accepted by the Intermediary for that business day is the Instruction number that immediately follows the last Instruction number assigned by the Intermediary for the previous business day. As long as the Instruction numbers are in the correct sequence between business days no further action would be necessary by the third party.

- If the third party identifies either a break or overlap in the sequential time stamped between business days it will immediately notify the Intermediary of the irregularity. If the Intermediary is able to identify the error and resubmit corrected Order information to the third party before the third party's trading deadline (e.g., 6 a.m.), the Orders will be processed with no further action necessary. If the Intermediary is unable to identify and correct the error before the trading deadline, the original Orders will be processed as submitted and the following additional steps will be taken.

- If the Intermediary is unable to identify the cause of the irregularity before the third party's trading deadline, the third party will initiate a mutual fund notification process and the Intermediary will be required to continue to research and identify the cause of the irregularity and the affected funds to allow for corrective action.