

**SECURITIES AND EXCHANGE COMMISSION
OPEN MEETING OF THE INVESTOR ADVISORY COMMITTEE**

Statement of the Investment Company Institute

July 19, 2009

I. Introduction

The Investment Company Institute (“ICI” or “Institute”), the national association of U.S. mutual funds and other investment companies,¹ appreciates the opportunity to offer its views to the Investor Advisory Committee of the Securities and Exchange Commission on issues affecting investors.

The Institute and its members are uniquely positioned to comment on issues affecting investors. Investment companies, which include mutual funds, closed-end funds, exchange-traded funds, and unit investment trusts (collectively “funds”), have been among the largest investors in the domestic financial markets for much of the past 15 years. At the end of 2008, funds collectively held 27 percent of outstanding stock in U.S. companies, 33 percent of U.S. municipal securities, and 44 percent of commercial paper, along with substantial holdings in corporate bonds and treasury and government agency securities.² Funds are also significant issuers of securities. They manage over ten trillion dollars,³ and their shareholders include more than 93 million individual investors in over 45 percent of all U.S. households.⁴

We are especially pleased that the Committee has elected to consider, as its first substantive order of business, investor views of possible refinements to the SEC’s disclosure regime.⁵ An examination of the information provided to investors and the markets is extremely timely. Moreover, disclosure is a subject to which our members have given much attention as both issuers and investors.

¹ The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$10.6 trillion and serve over 93 million shareholders.

² See *2009 Investment Company Fact Book*, 49th Edition, Washington, DC: Investment Company Institute, 2009, available at <http://www.icifactbook.org>.

³ *Id.*

⁴ See *Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet*, 2008, ICI Research Fundamentals, available at <http://www.ici.org/pdf/fm-v17n6.pdf>.

⁵ Notice of Meeting of SEC Investor Advisory Committee, SEC Release Nos. 33-9049 and 34-60260, File No. 265-25 (July 8, 2009) (“The agenda for the meeting includes opening remarks, introduction of Committee members, discussion of Committee agenda and organization, and discussion of investor views of possible refinements to the disclosure regime.”).

As issuers of securities, funds take very seriously their obligation to provide important information to their shareholders, and we support initiatives designed to improve the quality and utility of such disclosure. For example, we strongly supported the SEC’s recently adopted “summary prospectus” rule⁶ and, as discussed further below, we hope similar reforms will be adopted with respect to mutual fund shareholder reports.

Funds also take a keen interest in the types of disclosure available to them as investors in the markets. For example, we believe there is room for improvement in the information made available to the public about municipal securities and credit ratings. Better information in these areas would help funds and other investors improve their credit analysis and make informed investment decisions. It is important to note that these are not just issues for institutional investors – any changes that improve funds’ ability to make investment decisions would ultimately accrue to fund shareholders and indeed, to all market participants.

To aid the Committee’s consideration of possible refinements to the SEC’s disclosure regime, we are pleased to offer our views on a number of disclosure-related issues. We stand ready to assist as the Committee explores these and other important issues affecting investors.

II. Disclosure to Mutual Fund Investors

A. Shareholder Reports

Last fall the Commission took huge strides in improving disclosure to investors in mutual funds and ETFs when it adopted rules modifying these funds’ prospectus obligations.⁷ Under the new rules, funds must place important information in a concise summary section at the front of their statutory prospectuses, and are permitted to send investors a “summary prospectus” in lieu of the statutory prospectus, so long as they provide additional information on the Internet and in paper upon request.

The Institute and its members strongly supported this initiative.⁸ Our research, as well as research by the Commission and consumer groups, suggests that providing a simplified, streamlined disclosure of essential fund information will result in better-informed investors, because investors are far more likely to read a summary document than a full statutory prospectus.⁹ Further, the

⁶ See *Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies*, SEC Release Nos. 33-8998 and IC-28584 (Jan. 13, 2009), available at <http://www.sec.gov/rules/final/2009/33-8998.pdf>.

⁷ *Id.*

⁸ See, e.g., Letter from Karrie McMillan, General Counsel, Investment Company Institute, to Nancy M. Morris, Secretary, U.S. Securities and Exchange Commission, dated Feb. 28, 2008, available at <http://www.sec.gov/comments/s7-28-07/s72807-92.pdf>; see also generally comment letters submitted to the SEC on the proposal, available at <http://www.sec.gov/comments/s7-28-07/s72807.shtml>.

⁹ See, e.g., Final Report: Focus Groups on a Summary Mutual Fund Prospectus, Prepared for the Securities and Exchange Commission, May 2008, available at <http://www.sec.gov/comments/s7-28-07/s72807-142.htm>; Transcripts: Focus Groups

Commission's layered approach to disclosure ensures that those investors who do seek more detailed information may readily access it. Finally, moving lengthy disclosures to the Internet should result in substantial cost savings to save funds and their shareholders from reduced printing and mailing, with attendant environmental benefits.

As Investment Management Division Director Donohue has noted, mutual fund annual and semi-annual reports to investors could benefit from streamlining, much like the prospectus.¹⁰ Indeed, a recent telephone survey by the SEC found that almost half of mutual fund investors who received these documents report reading them rarely, very rarely or never; among the most commonly cited reasons for this were that the reports are too complicated or hard to understand, and too long.¹¹ Director Donohue recently stated that the Division will be considering reform of mutual fund shareholder reports, and will be reaching out to the industry and shareholder advocates for assistance.¹² We strongly support this initiative, and we believe that, as with the summary prospectus, the solicitation of input from investors, funds, and the public will help the Commission to develop a rule with great potential. We encourage the Committee to lend its assistance to this important effort.

B. XBRL and Structured Data Reporting

In recent years, the Commission has pursued several initiatives related to the use of interactive or structured data, including rule amendments adopted by the Commission earlier this year requiring

on a Summary Mutual Fund Prospectus, Prepared for the Securities and Exchange Commission, May 2008, available at <http://www.sec.gov/comments/s7-28-07/s72807-142.htm>; Mandatory Disclosure Documents Telephone Survey, Submitted to the Securities and Exchange Commission, July 30, 2008, available at <http://www.sec.gov/pdf/disclosuredocs.pdf>; Investment Company Institute, *Investor Views on the U.S. Securities and Exchange Commission's Proposed Summary Prospectus* (March 14, 2008), available at http://www.ici.org/stats/res/lppr_08_summary_prospectus.pdf; Investment Company Institute, *Cost-Benefit Analysis of SEC Mutual Fund Disclosure Reform Proposal* (Feb. 28, 2008), available at http://www.ici.org/policy/comments/cov_comment/08_sec_prospectus_com_att2; Investment Company Institute, *Understanding Investor Preferences for Mutual Fund Information* (2006), available at http://www.ici.org/stats/res/rpt_06_inv_prefs_full.pdf; Investment Company Institute, *Ownership of Mutual Funds and Use of the Internet, 2006*, available at <http://www.ici.org/pdf/fm-v15n6.pdf>; see also Barbara Roper and Stephen Brobeck, Consumer Federation of America, *Mutual Fund Purchase Practices* (June 2006), available at http://www.consumerfed.org/pdfs/mutual_fund_survey_report.pdf.

¹⁰ See Andrew J. Donohue, Director, Division of Investment Management, U.S. Securities and Exchange Commission, Keynote Address, 2009 Mutual Funds and Investment Management Conference, available at <http://www.sec.gov/news/speech/2009/spch032309ajd.htm> ("The Division will also be considering reform of fund shareholder annual and semi-annual reports. Similar to the summary prospectus, the impetus behind this reform is a need for mutual fund disclosure that is easier to understand and accessible to investors, while maintaining the same amount of disclosure that is available today.").

¹¹ Mandatory Disclosure Documents Telephone Survey, *supra* note 9, at 78, 80.

¹² See Andrew J. Donohue, *supra* note 10.

mutual funds to file the risk/return summary section of their prospectuses in interactive data format, using eXtensible Business Reporting Language (“XBRL”).¹³ While structured data has obvious benefits in the context of certain financial or other quantitative information, its application to narrative text is more challenging, and the benefits are more speculative. Our experience to date suggests that, particularly as applied to fund disclosure, XBRL is not user-friendly for investors. As the Commission continues work on modernizing its disclosure system, we urge the Committee to provide input on the many ways investors access – and wish to access – fund information. We also encourage the Committee to carefully consider the full range of technological possibilities, rather than singling out one, such as XBRL, to apply to all types of disclosures.

C. Proxy Voting Records

Since 2004, funds have been required to publicly disclose their proxy votes. An analysis of fund voting records demonstrates how funds use the corporate franchise to promote the interests of their shareholders.¹⁴ Specifically, ICI research indicates, among other things, that: (1) funds devote substantial resources to proxy voting; (2) funds vote proxies in accordance with their board-approved guidelines; and (3) funds do not reflexively vote “with management,” as some critics claim, but rather make nuanced judgments in determining how to vote on both management and shareholder proposals.¹⁵

Funds are currently the only investors subject to this disclosure requirement, and we believe that it should be extended to other institutional investors.¹⁶ Greater transparency around proxy voting by institutional investors should enhance the quality of the debate concerning how the corporate franchise is used, particularly in the context of “say on pay” proposals, where the public disclosure of advisory votes would maximize their influence over management. In addition, the current regulatory disparity means that only fund firms are singled out for scrutiny and second-guessing for the manner in which they voted, thereby uniquely politicizing mutual fund portfolio management. To the extent that

¹³ See *Interactive Data for Mutual Fund Risk/Return Summary*, SEC Release Nos. 33-9006, 34-59391, 39-2462, IC-28617 (February 11, 2009), available at <http://www.sec.gov/rules/final/2009/33-9006.pdf>.

¹⁴ See Investment Company Institute, *Proxy Voting by Registered Investment Companies: Promoting the Interests of Fund Shareholders*, July 2008, available at <http://www.ici.org/pdf/per14-01.pdf>.

¹⁵ *Id.*

¹⁶ See, e.g., Testimony of Paul Schott Stevens, President and CEO, Investment Company Institute, Before the Committee on Financial Services, United States House of Representatives, on “SEC Proxy Access Proposals: Implications for Investors,” September 27, 2007, available at <http://www.house.gov/financialservices/hearing110/htstevens092707.pdf>; Investment Company Institute, Submission to U.S. Chamber of Commerce Commission on the Regulation of U.S. Capital Markets in the 21st Century, January 26, 2007, available at http://www.ici.org/policy/comments/07_reg_cap_mark_stmt; Letter from Paul Schott Stevens, Investment Company Institute, to Professor Hal S. Scott, Director, Committee on Capital Markets Regulation, Nov. 20, 2006, available at <http://www.ici.org/pdf/20606.pdf>.

the Committee believes that proxy vote disclosure achieves important public policy purposes, we urge it to support our recommendation to extend such disclosure to all institutional investors.

III. Disclosures Not Specific to Funds

A. Point of Sale Disclosure

The Institute has long supported the concept of enhanced point of sale disclosure to help investors assess and evaluate an intermediary's recommendations. We are, however, deeply concerned that this disclosure may be required only in connection with the sale of investment company shares. The Obama Administration's recently proposed "Investor Protection Act of 2009," which would authorize the SEC to designate the documents or information that must precede a sale to a purchaser of fund securities, but not other types of investments, has exacerbated these concerns.¹⁷

Imposing burdens exclusively on the sale of fund shares could incentivize intermediaries to recommend other investment products not subject to the same requirements at the point of sale, even when those products do not offer the same level of protection and other benefits for investors. Regulators and consumer advocates alike have expressed concerns about this impact.¹⁸ Accordingly, we strongly believe that any point of sale disclosure obligation should be product-neutral; this type of disclosure is equally important for investors to consider with respect to *any* investment offered by an intermediary, not just funds. In order to protect investors in all types of products, the Committee should encourage Congress to broaden the scope of its point of sale directive to encompass all retail investment products.

Further, any point of sale disclosure requirement should be fully consistent with the manner in which intermediaries sell investment products (*i.e.*, typically by telephone or over the Internet, rather than in face-to-face meetings). Delivery requirements should neither impede an investor's ability to effect transactions nor impose unwarranted burdens on the sales process. We encourage the

¹⁷ "Investor Protection Act of 2009," proposed legislation, available at <http://www.treas.gov/press/releases/docs/tg205071009.pdf>; see also Testimony of Paul Schott Stevens, President and CEO, Investment Company Institute, Before the Committee on Financial Services, United States House of Representatives, on "Industry Perspectives on the Obama Administration's Financial Regulatory Reform Proposals," July 17, 2009, available at http://www.ici.org/policy/ici_testimony/09_reg_reform_jul_tmny;

¹⁸ See, e.g., Remarks by Robert Glauber, Chairman, NASD, at the Investment Company Institute's 2006 General Membership Meeting (May 18, 2006), available at <http://www.finra.org/PressRoom/SpeechesTestimony/RobertR.Glauber/p016642> ("An investor should be sold a security because it's right for him or her, not because it's easier to sell than something else."); Remarks by Barbara Roper, Director of Investor Protection, Consumer Federation of America, at the Securities and Exchange Commission 12b-1 Roundtable, Unofficial Transcript, p. 196, available at <http://www.sec.gov/news/openmeetings/2007/12b1transcript-061907.pdf> (stating that stated that by considering fee disclosures as "a mutual fund issue, instead of a broker compensation issue, sort of more holistically, you run the risk that you make mutual funds less attractive to sell. And I think that would be a very bad thing.").

Committee to bring the investor's perspective to any point of sale rulemaking, to ensure that the requirements do not make it unnecessarily difficult for an investor to purchase investment products.

B. Municipal Securities Market Disclosure

Comprehensive, accurate, and accessible disclosure is critical to investors in the municipal securities markets, particularly because of the complexity, diversity, and sheer number of securities in this market. At the end of 2008, investors held 33 percent of the \$2.7 trillion municipal securities market through funds, and another 36 percent directly.¹⁹ These investors need timely and efficient access to information to perform credit analysis, make informed investment decisions, monitor their securities portfolios, and protect themselves from fraud.

Currently, municipal investors do not receive the disclosure they need. Legislative action regarding the Tower Amendment will be necessary to develop a truly adequate disclosure regime for municipal securities. The Tower Amendment prohibits the SEC (and the Municipal Securities Rulemaking Board) from directly or indirectly requiring issuers of municipal securities to file documents with them before the securities are sold. Because of these restrictions, the disclosure regime for municipal securities is woefully inadequate and the regulatory framework is insufficient for investors in today's complex marketplace. Most significantly, the disclosure is limited, non-standardized, and often stale, and the disparities from the corporate issuer disclosure regime are numerous.

We believe that changes to the municipal securities marketplace necessitate that certain disclosure requirements be imposed directly on municipal issuers to ensure the long-term stability of this market. To this end, we have consistently urged the SEC to use the full range of its current authority to rectify deficiencies in this area by taking steps to improve the content and timing of disclosure regarding municipal securities to assist funds and other investors.²⁰

We are encouraged by the efforts undertaken by the SEC earlier this week to improve municipal securities disclosure.²¹ These efforts are constrained, however, by legislative limits on the SEC's authority, and we are in strong agreement with Chairman Schapiro that more will need to be

¹⁹ See 2009 Investment Company Fact Book, *supra* note 3.

²⁰ See, e.g., Letter from Karrie McMillan, General Counsel, Investment Company Institute, to Florence Harmon, Acting Director, U.S. Securities and Exchange Commission, September 22, 2008, available at <http://www.sec.gov/comments/s7-21-08/s72108-12.pdf>; Letter from Karrie McMillan, General Counsel, Investment Company Institute, to Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, dated March 26, 2009, available at <http://www.sec.gov/comments/s7-04-09/s70409-14.pdf>; Statement of Paul Schott Stevens, President and CEO, Investment Company Institute, at the SEC Roundtable on Oversight of Credit Rating Agencies, April 15, 2009, available at <http://www.sec.gov/comments/4-579/4579-15.pdf>.

²¹ See "SEC Votes to Propose Rules Enhancing Municipal Securities Disclosure," SEC Press Release 2009-161 (July 15, 2009), available at <http://www.sec.gov/news/press/2009/2009-161.htm>.

done.²² The SEC itself has stated that it is “near to the statutory limits of its present authority to address the needs of investors in municipal securities for information upon which investment decisions may be made. To provide investors in municipal securities with access to full, accurate, and timely information like that enjoyed by investors in many other U.S. capital markets, the [SEC] requires expanded authority over the municipal securities market.”²³ We recommend that the Committee endorse the SEC’s need for further authority to ensure that the necessary information is provided to all municipal investors, and support efforts to amend or repeal the Tower Amendment.

C. Credit Rating Agency Disclosure

As significant investors in the securities markets, funds have a substantial stake in the soundness and integrity of the credit rating system. Access to information about a rating agency’s policies, procedures and other practices relating to its rating decisions is very important to funds. In particular, investors must be able to identify the limitations of a credit rating. This requires meaningful disclosure of information about the rating and how it was determined, as well as sufficient information to enable investors to perform their own analysis of the risk associated with a particular security. Increased public disclosure of this information also would allow investors to more effectively evaluate a rating agency’s independence, objectivity, capability, and operations, and would serve as an additional mechanism for ensuring the integrity and quality of credit ratings.

We have consistently supported the SEC’s goal of addressing longstanding concerns regarding credit ratings and the oversight of rating agencies.²⁴ We do not believe, however, that the current

²² Opening Statement before the Commission Open Meeting, Mary L. Schapiro, Chairman, U.S. Securities and Exchange Commission, July 15, 2009, available at <http://www.sec.gov/news/speech/2009/spch071509mls.htm>.

²³ See U.S. Securities and Exchange Commission, “Disclosure and Accounting Practices in the Municipal Securities Market,” White Paper to Congress, July 2007, available at <http://www.sec.gov/news/press/2007/2007-148wp.pdf>; see also Chairman Mary L. Schapiro, U.S. Securities and Exchange Commission, Address before the New York Financial Writers’ Association Annual Awards Dinner, New York, June 18, 2009, available at <http://www.sec.gov/news/speech/2009/spch061809mls-2.htm> (voicing frustration regarding the limitations on the SEC’s authority in this market, and expressing an intention to request Congressional assistance to more fundamentally address municipal disclosure).

²⁴ For an in-depth discussion of our views on reform of rating agency regulation, see, e.g., Letter from Karrie McMillan, General Counsel, Investment Company Institute, to Florence Harmon, Acting Secretary, U.S. Securities and Exchange Commission, dated July 25, 2008, available at <http://www.sec.gov/comments/s7-13-08/s71308-44.pdf>, and Letter from Elizabeth Krentzman, General Counsel, Investment Company Institute, to Nancy M. Morris, Secretary, U.S. Securities and Exchange Commission, dated March 12, 2007, available at <http://www.sec.gov/comments/s7-04-07/s70407-32.pdf>. See also Statement of Paul Schott Stevens, *supra* note 20; Statements of Paul Schott Stevens, President, Investment Company Institute, on the “Credit Rating Agency Duopoly Relief Act of 2005,” before the Committee on Financial Services, U.S. House of Representatives (November 29, 2005), available at <http://financialservices.house.gov/media/pdf/112905ps.pdf> and “Assessing the Current Oversight and Operation of Credit Rating Agencies,” before the Committee on Banking, Housing, and Urban Affairs, U.S. Senate (March 7, 2006), available at http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=316a0acc-f3bc-4d8b-b09f-d013fb60e81b.

regulatory regime for rating agencies is adequate to address the growing diversity or complexity of the capital markets. The SEC must take additional steps to improve the quality, accuracy, and integrity of ratings and the rating process. Specifically, the SEC should give serious consideration to strengthening regulatory controls over rating agencies in at least four ways: (1) improve disclosure about credit ratings and the rating process; (2) require credit rating agencies to conduct better due diligence and verification; (3) hold credit rating agencies to greater legal accountability; and (4) apply regulation uniformly to all credit rating agency models.²⁵ Further, the SEC must take additional steps to provide investors with increased information, including requiring increased disclosure directly by issuers to investors.²⁶ Better disclosure will assist investors in making their own risk assessments and should foster better quality ratings. We urge the Committee to make credit rating agency reform a high priority.

D. Target Retirement Date Funds

Reviewing disclosure issues related to target retirement date funds and the understanding of these funds by investors is an important item on the Commission's agenda. These retirement industry products, which can be organized as mutual funds or funds qualifying for the exemption in section 3(c)(11) of the Investment Company Act, provide an efficient way for an investor to obtain investment in a mix of asset classes in a single fund that both rebalances its asset allocation periodically and becomes more conservative over time, as a fund approaches the target date. Because some issues related to target retirement date funds fall under the Department of Labor's jurisdiction, on June 18, 2009, the Commission held a joint hearing with the Department to determine if additional guidance on target retirement date funds, including disclosure guidance, by either agency would be helpful.

While target retirement date funds that are mutual funds currently do a good job in describing their objectives, risks and asset allocation paths (or glide paths) in their SEC-mandated prospectuses and fund marketing materials, there may be gaps in the public's understanding of target retirement date funds. The retirement industry and regulators can and should do more to enhance understanding of these funds. As a first step in this direction, the Institute's Target Date Fund Disclosure Working Group developed *Principles to Enhance Understanding of Target Date Funds* that distill down key pieces of information an investor should know about a target retirement date fund.²⁷ These Principles are designed for use by all target retirement date fund products.

We share the commitment of the Commission to work with the Department of Labor to assure that the interests of investors are protected in connection with the use of target date funds in retirement plans and that understanding of these useful investments is enhanced. The perspective of

²⁵ See Letter from Karrie McMillan, dated March 26, 2009, and Statement of Paul Schott Stevens, *supra* note 20.

²⁶ Two specific areas in which ICI believes additional disclosure should be required are structured finance products and municipal securities. *See id.*

²⁷ The Principles are available at http://www.ici.org/pdf/ppr_09_principles.pdf.

investors is valuable in weighting these issues. Because target retirement date funds are not all organized as mutual funds but can also be structured as, for example, bank collective funds or insurance company separate accounts, it is critical that any new disclosure requirements apply to all target date funds. The Committee could be an important voice in calling for disclosure about retirement products that assures that defined contribution plan investors have key information about all plan investment options, not just mutual funds.

IV. Conclusion

The Institute appreciates the Committee's attention to improving disclosure to investors. As both investors in and issuers of securities, Institute members are dedicated to improving the quality of information available to investors and the public. We would be pleased to offer our assistance to the Committee as it considers recommendations to the Commission regarding these and other important initiatives.