

**MEMO# 22222**

February 8, 2008

## **Draft ICI Comment Letter On SEC Disclosure Reform Proposal**

[22222]

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TO: TECHNOLOGY COMMITTEE No. 2-08     RE: DRAFT ICI COMMENT LETTER ON SEC DISCLOSURE REFORM PROPOSAL

As we previously informed you, in November of last year, the Securities and Exchange Commission proposed amendments to the rules and forms used by mutual funds to register under the Investment Company Act of 1940 and to offer their securities under the Securities Act of 1933. [\[1\]](#) The proposed amendments would require key information to appear in plain English, in a standardized order, at the front of every mutual fund's statutory prospectus, in place of the current risk/return summary. Additionally, the proposed amendments would permit a fund to satisfy its prospectus delivery obligation under Section 5(b)(2) of the Securities Act by providing investors with a summary prospectus containing the same key information, and making additional information, including the statutory prospectus, available on the Internet and in paper or by email upon request.

Comments on the proposal are due to the SEC by February 28th. The Institute has prepared the attached draft comment letter. As the letter is a draft and may change before being finalized, please do not distribute it outside your firm.

The draft comment letter is 37 pages long. Our most significant comments are highlighted below.

In summary, the draft letter:

- strongly supports the SEC’s proposed concept of a new prospectus delivery option for mutual funds; [\[2\]](#)
- strongly opposes the proposed requirement to update performance and top ten portfolio holdings information on a calendar quarterly basis, because the costs and burdens appear to far outweigh any potential benefits;
- recommends, as an alternative to quarterly updating, that the summary prospectus include a legend directing investors to the fund’s website for updated performance and top ten portfolio holdings information;
- applauds the SEC’s efforts to ensure that proper use of the summary prospectus does not subject funds to the threat of new or additional liability;
- recommends revisions to address the concern that certain aspects of proposed Rule 498 may unintentionally increase funds’ litigation risk and associated costs, and suggests solutions to address requirements that are not sufficiently clear, such as the “greater prominence” requirement;
- strongly supports the SEC’s conceptual framework for making the statutory prospectus, statement of additional information, and shareholder reports available on the Internet, but stresses that required technology changes must be evolutionary, rather than revolutionary, if the SEC wishes to encourage widespread use of summary prospectuses;
- suggests clarifications to certain proposed technology-related requirements, in light of the applications Institute members have indicated they will use for initial implementation of the summary prospectus;
- recommends various changes to the proposed order and content of information in the summary prospectus, including:
  - revising the proposed order so that a fund’s investment strategies, risks and performance are described up front, immediately following its investment objectives, as in the current risk/return summary;
  - requiring disclosure of total annual operating expenses in the summary, with a breakdown of components (e.g., management and 12b-1 fees) elsewhere;
  - eliminating top ten portfolio holdings disclosure, but requiring that it be available on a website;
  - not requiring after-tax return disclosure in the summary; and
  - not requiring portfolio manager disclosure in the summary.

We are working on a cost-benefit analysis of the SEC’s proposal, based on information collected through a recent Institute member survey. The cost-benefit analysis will be provided as Appendix B to the draft letter. (The survey questionnaire will be Appendix A.) In addition, some of the survey findings are discussed in relevant sections of the letter.

As noted in the draft letter, the Institute also recently conducted a survey of 500 investors requesting general feedback on the summary prospectus proposal and inquiring about preferences regarding certain presentation elements. An analysis of the results will not be completed in time to be included in our comment letter. We plan to file a supplemental comment letter discussing the findings.

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## [Attachment](#)

### **endnotes**

[1] See Memorandum to SEC Rules Committee No. 91-07, Small Funds Committee No. 39-07, and Operations Committee No. 32-07 [22001], dated November 30, 2007; Memorandum to Broker/Dealer Advisory Committee No. 73-07 and Transfer Agent Advisory Committee No. 84-07 [22002], November 30, 2007.

[2] The letter also supports the proposed changes to Form N-1A to provide investors with summary information at the front of the statutory prospectus, subject to comments on format, order, and content.

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