

ICI VIEWPOINTS

November 5, 2010

12b-1 Proposal Misses the Mark

Today, ICI filed its [comment letter](#) on the Securities and Exchange Commission's proposal to replace Rule 12b-1. While our letter commends the SEC for addressing some legitimate concerns with Rule 12b-1, we question the proposal's timing and breadth, calling it far more extensive and intrusive than necessary. We believe that the proposal ultimately places the agency in the inappropriate role of a ratemaker.

Rule 12b-1 rule governs distribution fees (commonly called "12b-1 fees"). 12b-1 fees have evolved over time, and are now used to pay for a wide variety of ongoing investor services in mutual funds, such as access to brokers and account recordkeeping.

[The proposal](#) comes at a time when the SEC is also actively considering the legal structure and requirements for brokers and advisers who sell financial services. We think the SEC should first resolve that debate and then address 12b-1 reform and related issues like point of sale disclosure. Tackling 12b-1 first is like a homebuilder hanging drywall before the roof is on. Like hanging drywall, 12b-1 reform needs to be done, but at the right time and in the right way.

Another important point is that the SEC is required by statute to weigh the anticipated benefits of a rulemaking against any resulting costs and burdens for investment companies, particularly small funds. We question the SEC's cost-benefit analysis, and we are conducting our own economic analysis to better inform the rulemaking. That analysis will be submitted to the SEC in the coming weeks.

ICI has long supported 12b-1 reform that increases transparency and investor understanding of distribution fees. It's unfortunate that this proposal from the SEC misses that mark.

- Read [ICI's letter](#).
- Find more recent [ICI comment letters](#).
- For more on Rule 12b-1, visit [ICI's 12b-1 Resource Center](#).