Consumer Federation of America

January 4, 2021

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE, Washington, DC 20549-1090

Re: File No. S7-09-20, Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements

Dear Secretary Countryman:

I am writing on behalf of the Consumer Federation of America (CFA)[1] in response to the Commission's proposal to modernize the disclosure framework for mutual funds, including through the creation of tailored shareholder reports highlighting "key information that is particularly important for retail investors to assess and monitor their fund investments." There is much that we support in the proposal, including the Commission's generally thoughtful approach to the content and design of these tailored reports. There are also a few areas where we believe changes are warranted, as we discuss below. We therefore support moving forward with the proposed rulemaking, subject to investor testing to further refine the proposed approach and taking into account changes that can be made to make the proposed approach even more investor-friendly.

We submitted a separate comment letter last month addressing one specific issue related to this rulemaking – a proposal from industry groups to switch the default for delivery of disclosures from paper to electronic.[2] In that letter, we opposed the approach being advocated by industry and urged the Commission instead to undertake a more comprehensive review of how to update its approach to disclosure for an increasingly digital world. We argued that only by rethinking its approach to disclosure more broadly can the Commission ensure that investors, and not just industry, reap the benefits of a more technology-driven approach to disclosure.

[1] Consumer Federation of America is an association of more than 250 national, state, and local pro-consumer organizations founded in 1968 to advance the consumer interest through research, advocacy, and education.
[2] Letter from CFA Director of Investor Protection Barbara Roper regarding File No. S7-09-20 (Dec. 15, 2020), https://www.sec.gov/comments/s7-09-20/s70920-8144542-226675.pdf.

I. CFA Supports the Proposal to Create Tailored Shareholder Reports

CFA agrees with the Commission that individual investors can benefit from a layered approach to disclosure that highlights the key information they need to consider when selecting new investments, evaluating their existing investments, or selecting a financial professional to rely on for advice or recommendations. Moreover, we believe mutual funds and ETFs – the investments of choice for millions of average, working Americans – are an appropriate place to focus when developing such an approach. We therefore strongly support the proposal to create "concise and visually engaging shareholder reports that would highlight key information that is particularly important for retail investors to assess and monitor their fund investments." When combined with continued access to more detailed disclosures online, these tailored annual and semiannual shareholder reports can ensure that less financially sophisticated investors get information in a more digestible form that reflects their preference for concise disclosures, while institutional investors, third-party information providers, and other more sophisticated market participants retain access to the more comprehensive and detailed information that meets their needs.

Moreover, we believe the Commission has done a generally thoughtful job of identifying the key information that should be included in those tailored shareholder reports and presenting it in an appealing and accessible format. Requiring delivery of these streamlined reports represents a huge improvement over the approach adopted in Rule 30e-3, which would be superseded by this proposal. We therefore support Commission action to finalize this rule, subject to certain changes outlined below. Before the Commission acts to finalize the rules, however, we urge the Commission to engage in testing to evaluate the effectiveness of these reports. That testing should focus not just on whether investors find the reports visually engaging or like the shorter length, but on whether they are more likely to read them than they would be with longer, more detailed disclosures, whether the reports contain the information investors most want to receive, and whether investors are able to use the reports to understand the key information they need to monitor their fund investments. The results of that testing should be used to refine the Commission's approach where appropriate.

A. CFA supports the requirement that funds prepare separate reports for each of their series.

One factor that contributes to the excessive length of annual reports is the practice of preparing a single shareholder report to cover multiple fund series. This is reflected in the findings of the staff's recent review of shareholder reports, which found reports varying in length from 22 pages to more than 600 pages. Not surprisingly, most of the reports that were between 22 and 45 pages covered a single series.[3] According to the staff analysis, this factor alone does not entirely explain the difference in length, but requiring funds to prepare separate reports for each of their series is an important step toward reining in their excessive length. It should also make it easier for investors to find the information that is directly relevant to them. Whether this will be enough to substantially increase investors' willingness to read the reports remains an open question, but it seems clear that very few investors would be willing to pore through a 600-plus page shareholder report, or even a 134-page report, to find the information that is most

[3] Release at 15, footnote 16.

pertinent to them. We therefore support this and other steps the Commission proposes to shorten the length of these retail disclosures while retaining online access to more detailed information.

As the Release discusses, another factor that contributes to the length and complexity of shareholder reports is the multiplicity of share classes that a single fund series may offer, since funds must report the different expense and performance data for the various share classes. Providing this contrasting information is obviously of critical importance when investors are making their initial investment decision, since it can help them determine which share class is the best option for them. In addition, we believe that presenting this contrasting information can provide value to investors in monitoring their existing investments. Seeing this information could, for example, cause the investor to question why they are invested in shares that carry higher costs or suffer poorer performance relative to other available share classes. That might help them to better understand the conflicts of interest that may influence their financial professional's recommendations or the impact of costs on performance.

We are therefore at least preliminarily opposed to the idea, on which the Commission requests comment, of permitting funds to reflect only a subset of share classes in a shareholder report. Despite our initial skepticism, we believe this approach is worth testing to see whether it results in a better investor experience. If testing demonstrates that limiting the number of share classes reported on in a single report offers benefits that outweigh the potential downsides, the Commission should proceed accordingly. However, if it opted to pursue such an approach, the Commission would need to develop and enforce rules to govern the selection of share classes presented in a single report. The goal should be to ensure that funds present the information that enables investors to make a fair comparison of the primary fund classes in which they would be eligible to invest, based, for example, on the type of account in which the shares are held.

This is an area where we believe digital disclosure, properly approached, has the potential to deliver significant benefits to investors. If data is tagged, investors who review disclosures online should be able to quickly access both information that is individualized to them, based on the share class they hold, and a broad overview that shows how their particular share class compares with that of other share classes in which they would be eligible to invest. But this benefit will not be delivered simply by switching the delivery default for disclosures from paper to electronic. Instead, it will require a more thorough rethinking of the Commission's approach to digital disclosure, as we discussed in our earlier letter.

B. CFA supports the decision to limit the information that funds are permitted to include in the tailored shareholder reports.

CFA agrees with the Commission that "allowing only the required or permitted information to appear in a fund's annual report would promote consistency of information presented to shareholders and would allow retail shareholders to focus on information particularly helpful in monitoring their investment in a fund." In addition, the proposed approach would benefit investors by preventing reports from being loaded up with "information commonly used in marketing materials." Moreover, we agree that achieving that consistency and focus on essentials should be a central goal of this initiative. The narrow exception that the Commission proposes – permitting a fund to add information necessary to make required disclosures not misleading – is appropriate.

Our one concern in this area has to do with the Commission's proposal to permit funds to "modify a required legend or narrative information if the modified language contains comparable information to what is otherwise required." While we can see potential benefits to this approach, it also comes with risks that the flexibility will be used to soften, obscure, or distract from information the fund may wish to downplay. To guard against this risk, it is essential that this provision not be too loosely interpreted. Assuming the Commission decides to allow this flexibility, staff will need to monitor funds' practices to ensure that the information provided truly is "comparable" in both content and tone.

Finally, we agree that funds should not be permitted to incorporate information by reference into the report. The purpose of the report is to consolidate in a single, concise document the key information that investors need to assess and monitor their investments. Requiring them to go hunting for that information in other documents or other locations would conflict with that purpose. Here again, however, it is possible that digital disclosure may one day offer the opportunity to think differently about how information is compiled. Rather than thinking of disclosures as static documents which are periodically updated, for example, it might be possible for funds to regularly update information and, through the use of data tagging or similar technology, to digitally compile up-to-date, customized disclosures on demand. The investor wouldn't have to go looking for the information in different locations; the information would be compiled for them based on their information needs.[4]

C. We generally support the proposed content requirements.

CFA believes the Commission has generally done a good job of identifying the appropriate content for the tailored shareholder reports. As the hypothetical annual report included in the proposal makes clear, it is possible to compile the required information in a concise and visually appealing format. In particular, we appreciate the prominent focus on expenses, which is appropriate in light of the significant impact cost has on long-term performance. Moreover, while we may think investors over-emphasize past performance in their selection of funds, we agree that monitoring the ongoing performance of the funds they already own is necessary and appropriate, and that providing this information is consistent with investor preference. We do not have specific suggestions for additional items to be included in the tailored reports. Should others suggest additions, we encourage the Commission to subject any suggested additions to investor testing to determine whether investors value inclusion of the information or whether it is more likely to distract from more relevant topics.

While we share the Commission's goal of keeping these disclosures short, we would not support the adoption of a specific page limit. As the experience with Form CRS should have made clear, setting these kind of arbitrary page limits can have the unintended effect of producing dense, visually unappealing disclosures when firms try to squeeze all the required information into a limited space. Better to adopt the approach proposed here of limiting the

[4] This may or may not be unrealistic but, as we discuss further below, we encourage the Commission to think creatively about how the act of disclosure could be reimagined for a digital world.

information to be included and prohibiting the inclusion of additional information, without imposing a hard limit on length. If, however, the Commission finds going forward that the documents are becoming too lengthy to serve their intended purpose, it can and should revisit this question at that time.

1. We support the adoption of a simplified expense table.

CFA generally supports the proposal to adopt a simplified expense table. In particular, we strongly support the decision to base the expense information on a $10,000 investment in the fund, rather than the current $1,000 investment amount. We agree that this will give investors a more realistic view of the costs of investing. Indeed, we favored basing the illustration on a $10,000 investment amount back when this requirement was originally adopted. Having long maintained that investors are better able to understand costs when those costs are presented in dollar amounts, we believe the illustration that breaks out the beginning account value, total return before costs, costs paid, and ending account value in dollar amounts is likely to be particularly useful to investors. As with all other aspects of the proposal, however, we encourage the Commission to test the proposed approach to expense disclosure for effectiveness, rather than rely on assumptions about what is likely to work.

We have some concern regarding the proposed elimination of the currently required expense information based on a hypothetical 5% annual return. We recognize that the ability it provides to compare expenses across different funds is most important when the investor is selecting funds to invest in, but it may still have relevance for investors who rely on the shareholder report to monitor their current fund holdings. On the other hand, we believe simplifying the expense information in a single example also holds benefits. We would, therefore, encourage the Commission to engage in testing to determine whether the simplicity gained by reducing the number of examples outweighs the loss of this fund-to-fund comparability. The Commission should seek to determine, for example, whether the expense ratio (presented as costs paid as a percentage of the investment) provides sufficient comparability, or whether investors would better understand the information if it were presented as a dollar amount. Because this information would be presented as part of the simplified prospectus fee disclosures, elimination of the information here would be less of a concern if the Commission were to reconsider its decision to eliminate the annual prospectus update requirement.

Ultimately, what investors really want is personalized expense information. While we are not experts in the technology necessary to deliver this kind of personalized information, we believe this is another area where digital delivery has the potential to improve disclosures. We strongly encourage the Commission to conduct additional research to determine what would be involved in developing these sorts of personalized cost disclosures, not just for funds but for all types of investments and investment services, and to include this issue as part of its overall rethinking of how to approach disclosure in a digital world.

2. We encourage the Commission to update expense disclosures to provide more information on transaction and research costs.

While we are generally supportive of the proposed approach to expense disclosure in the tailored report, we are disappointed that the Commission has failed to take this opportunity to reconsider its approach to the disclosure of transaction and research costs more generally. Investors have long urged the Commission to provide more complete information on transaction costs. For example, in response to a 2003 Commission Concept Release, CFA joined with three other retail investor groups in urging the Commission to improve disclosures with regard to fund portfolio transaction costs.[5] "Because portfolio transaction costs constitute such a significant expense for fund shareholders, it is imperative that the Commission take prompt action to require full and effective disclosure of these costs," we wrote. While we appreciate the inclusion of the fund's turnover rate in the fund statistics section of the reports as a partial response to this concern, we are not convinced that most retail investors will be able to draw conclusions from that information about the fund's transaction costs. As such, while we support its inclusion in the reports, we do not see it as an adequate substitute for clearer transaction cost disclosure.

In addition to the earlier letter from retail investor advocates, three groups representing institutional investors – Healthy Markets, the Council of Institutional Investors, and the CFA Institute – wrote to the Commission more recently urging it the require funds to make disclosures related to trading and research costs.[6] The SEC Investor Advisory Committee has also called for improved disclosure along these lines, noting in its July 25, 2019 recommendation related to MiFID II that the practice of bundling together trading and research costs comes at the expense of fund investors, who can legally be forced to pay commissions that exceed the costs of trading without any assurance that they will benefit from the research paid for through this means.[7] Despite all of this evidence that investors want more and better information about trading and research costs, and although the Commission acknowledges that these costs can have a significant impact on fund performance, its sweeping proposal to modernize the fund disclosure framework fails to address the issue.

The Commission should act to address this oversight. We therefore urge the Commission, before finalizing this proposal, to consider how best to address this disclosure gap, whether in the fund prospectus, the detailed online shareholder reports, or in the new tailored shareholder reports. This should include disclosure of trading costs and amounts paid for research from client assets, as discussed in the previously submitted letter from Healthy Markets, CII, and CFA Institute.[8] If the information is provided online, the data should be tagged in order to enable it to

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[5] Letter from Fund Democracy, CFA, Consumers Union, and Consumer Action regarding File No. S7-12-03 (Mar. 16, 2004), https://www.sec.gov/rules/concept/s72903/mbullard03162004.htm.

[6] Letter from Healthy Markets, Council of Institutional Investors, and CFA Institute to SEC Chairman Jay Clayton regarding concerns related to best execution and research payment issues in the context of MiFID II (Jun. 26, 2019), https://www.sec.gov/comments/mifidii/cll5-5739221-186727.pdf.

[7] Recommendation of the SEC Investor Advisory Committee, Structural Changes to the US Capital Markets Re Investment Research in a Post-MiFID II World (Jul. 25, 2019), https://www.sec.gov/spotlight/investor-advisory-committee-2012/investment-research-post-mfid-ii-world.pdf.

[8] Letter from Healthy Markets, CII, and CFA Institute regarding File No. S7-09-20, Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual

be aggregated and analyzed by third-party information providers. Providing better information, and making it readily available to third-party information providers, has the potential to deliver significant benefits even to investors who never read those disclosures, if the transparency causes funds to rein in excess costs or abandon practices that unfairly shift costs onto certain subsets of investors, including retail investors.

3. We generally support the proposed approach to disclosing fund performance.

The Commission appears to have generally done a good job of keeping the most important information regarding fund performance from the existing reports in the new tailored reports, while taking appropriate steps to make that information more concise. In general, we believe the Commission has done a good job of identifying the information regarding performance that is most likely to help investors understand several factors that we view as being of particular importance, including the relative volatility of that performance, how that performance compared to the general conditions in the market, and what factors contributed to the fund's relative success or failure. Toward that end, we strongly support requiring inclusion of a narrative discussion of factors that materially affected the fund's performance during the most recent fiscal year as well as both the performance line graph and the performance table.

Because the Commission is simultaneously proposing to eliminate the annual delivery of fund prospectuses, it also includes additional information about fund performance that is currently provided in the prospectus. We support the inclusion of this added information. For example, we strongly support requiring the inclusion of certain class-specific performance information, requiring average annual total returns to be provided with and without sales charges, and requiring comparative information showing the average annual total returns of one or more relevant benchmarks. We recognize that some have raised concerns about the requirement to compare performance to the overall applicable securities markets. We believe the comparison would be useful to investors, as it makes the information more comparable across funds. It should also help to prevent funds from selecting for comparison a narrow index designed to make their own performance look artificially strong. However, before it finalizes this proposal, we encourage the Commission to engage in testing to determine the approach that works best to help financially unsophisticated retail investors put their funds' performance in an appropriate context.

Similarly, we encourage the Commission to test different graphic presentations of performance to determine which approach is most effective in presenting the key information in a way that best enables investors to understand its significance. Earlier research on graphic presentations of risk has shown that including a pictorial representation of investment risk is not just significantly more effective than describing those risks in text alone, but also that the design of that pictorial representation can have a measurable impact on disclosure effectiveness.[9] The

Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements (Nov. 6, 2020), https://www.sec.gov/comments/s7-09-20/s70920-7998614-225227.pdf.

[9] *See, e.g.*, Driver, Rebecca; Chater, Nick; Cheung, Benny; Latham, Mark; Lewis, Rich; and Stott, Henry, Helping Consumers Understand Investment Risk: Experimental Research into the Benefits of Standardising Risk Disclosure (ABI RESEARCH PAPER NO 25, 2010), report from Association of British Insurers Research Department and Decision Technology Limited.

study, which tested various designs for portraying investment risk, found that the top three pictorial designs tested were roughly twice as effective as the worst three designs. We believe there may be similar differences in effectiveness for different graphic presentations of performance that testing could reveal. We, therefore, encourage the Commission to engage in such testing and to use the results to refine its proposed approach, as appropriate.

4. We strongly support the approach to reporting on material fund changes.

The proposal would require funds to include a narrative discussion of material changes to the fund in the tailored shareholder reports. The discussion would be required to address material changes regarding an enumerated list of items that occurred since the beginning of the reporting period or that the fund plans to make in its forthcoming annual prospectus update. The enumerated items include material changes related to such high priority topics as: the fund's investment objectives or goals; the fund's ongoing annual fees, transaction fees, or maximum account fee; the fund's principal investment strategies; the principal risks of investing in the fund; and changes to the fund's investment adviser or portfolio manager. The fund would be required to provide a concise description of each such change with sufficient detail to allow shareholders to understand the change and how shareholders might be affected by it.

We believe the addition of this discussion of material changes is essential if the Commission proceeds with its proposal to eliminate the annual prospectus update requirement, and would be highly beneficial regardless of whether the Commission eliminates the prospectus update requirement. As the Commission notes, under the current approach, material changes are not typically clearly labeled in the updated prospectus and therefore may not be readily apparent to existing shareholders. We therefore agree that requiring the material changes to be highlighted in the tailored shareholder report should "increase the salience of material fund changes for shareholders and help shareholders more efficiently monitor and assess their fund investments relative to current disclosure requirements." Given the importance of the topics that would have to be addressed in this manner, we strongly urge the Commission to move forward with this change regardless of whether it eliminates the annual prospectus update requirement.

5. We generally support the accounting and liquidity risk disclosures, but with added conditions to ensure and improve their effectiveness.

As discussed above, we generally support the proposed required content for the tailored shareholder reports and the proposed approach to presenting that information. In addition to those topics discussed above, two additional items stand out as requiring additional attention from the Commission to ensure it gets the details right.

We support requiring summary information about disagreements with auditors in the tailored reports, with more complete information provided online. Disagreements with auditors over such matters as internal controls over financial reporting and management representations can be an important danger sign for shareholders, particularly when accompanied by the resignation or dismissal of the auditor, and should therefore be prominently disclosed. While we agree that such disclosures should put investors on notice of possible problems, we are concerned that many investors will not understand the significance of the information provided.

We therefore encourage the Commission to test possible approaches to the disclosures to determine the most effective way to convey the information to capture investors' attention and focus them on potential risks.

We support the requirement to include a concise description of the fund's liquidity risk management program that is tailored to the particular fund described in the shareholder report. The approach the Commission outlines – requiring funds to provide a brief summary of the key factors or market events that materially affected the fund's liquidity risk during the reporting period, the key features of the fund's liquidity risk management program, and the effectiveness of that program over the past year – is appropriate for communicating with the retail investors who are the intended audience for these tailored shareholder reports. We strongly support the proposal to direct funds, where appropriate, to tailor the disclosure to the fund and not rely on generic, standard disclosures.

We are concerned, however, that such a disclosure will not adequately address the concerns about funds' liquidity risk management practices that led the Commission to adopt Rule 22e-4 in 2016 on a unanimous vote. That rule, which would have required more detailed disclosures of the distribution of fund assets among four liquidity rankings or "buckets," was rescinded before it took effect based on an unsupported claim that the information it would have required would not be useful to investors. Even if you assume that many retail investors would not be able to make good direct use of the Rule 22e-4 disclosures, they could still benefit indirectly through the work of third-party analysts who could have analyzed and compared the information and distilled it for investors.[10] In short, we believe investors would benefit from a layered approach to liquidity risk management disclosure that provides more concise summary information for retail investors in the tailored shareholder reports, along the lines described in the Release, while supplementing that concise summary with more detailed disclosures online.

We therefore strongly encourage the Commission to reconsider its decision to rescind Rule 22e-4. Instead, as a supplement to the concise summary in the tailored shareholder reports, it should either revive Rule 22e-4 or adopt a similar requirement for funds to provide more detailed information on this critically important issue in their online disclosures. The goal should not be to simply move the boilerplate disclosures regarding liquidity risk management that some funds are currently providing online, but to provide more substantive information that would be of value to more sophisticated market participants and that could be analyzed by third parties to compare and provide context regarding different funds' liquidity risk management practices.

D. CFA strongly supports the proposed format and presentation requirements.

Simply requiring more concise and streamlined content will not deliver the full benefits of a layered approach to disclosure if the tailored reports are not also clearly written in language investors are likely to understand and presented in a way that is visually appealing. We therefore applaud the steps the Commission proposes "to encourage funds to use plain-English, investor-friendly principles when drafting their reports." It will be incumbent on the Commission to ensure that firms do more than give lip service to providing investor-friendly disclosures. Past

[10] *See,* Comment Letter from Better Markets, regarding Investment Company Liquidity Disclosure (Release No. IC-33046; File No. S7-04-18) (May 18, 2018), https://www.sec.gov/comments/s7-04-18/s70418-3663853-162422.pdf.

experience, including most recently with Form CRS, has shown that, unless the Commission takes a firm line in enforcing this requirement, some firms will find a way to design dense and unreadable tailored shareholder reports.

The provisions the Commission outlines here are an important step in that direction. For example, we strongly support the requirement that information appear in a specific order, with information on expenses, appearing first. Not only will this promote consistency, making it easier for investors to make comparisons across funds, but it will make it more difficult for firms to bury information they may prefer to downplay, such as high costs or poor performance. We also support the proposed instruction directing funds to "be concise and direct and to use short sentences, active voice, and definite, concrete, everyday words," to avoid legal jargon, technical terms, and vague boilerplate, to draft the reports as if speaking to the investor, and to incorporate design principles, such as use of white space, to make the reports easy to read. Properly implemented, these instructions should lead to more readable and visually appealing disclosures and thus improve investor comprehension.

All of these principles, and more, have been incorporated to good effect in the hypothetical report accompanying the proposal, showing that producing an engaging and readable document is an attainable goal. For example, the hypothetical report makes good use of the question-and-answer format, as well as charts and graphs and other graphic features. We agree that "these alternative ways of presenting information could increase readability." In fact, as discussed above, research has shown that how information is presented can have a significant impact on investors' understanding of that information and their ability to make sound investment decisions. We therefore encourage the Commission to consider doing more to require this sort of presentation, including by testing different approaches for relative effectiveness in conveying the desired information to investors. At the very least, the Commission should monitor how firms comply with the new requirements to determine whether a more prescriptive approach might be beneficial.

E. CFA strongly supports the proposed instructions regarding electronic annual reports.

As we discussed in our earlier letter regarding electronic delivery, we believe the time is right for the Commission to update its approach to disclosure for the digital age. While we do not support the specific proposal put forward by various industry groups to simply switch the default to electronic delivery, we do agree that investors are increasingly choosing to receive disclosures electronically and that, done properly, presenting information electronically has the potential to improve investor engagement. The Commission offers a number of concrete examples of how that could be achieved in the context of the current proposal, including: overlaying electronic tools, such as calculators, hover-over or pop-up information, and other interactive features, onto online disclosure. Most excitingly, electronic disclosure could allow investors to receive customized disclosures in certain areas, with regard to fees and expenses, for example, based on their personal circumstances.

We therefore strongly support the steps the Commission has taken to address the practical and legal questions that may arise when funds seek to adapt these disclosures for digital presentation. In its proposed instructions, the Commission has done a good job of striking an appropriate balance between providing funds with flexibility and providing clear guidelines and accountability. For example, we strongly support the requirement that reports presented electronically present the required information in the same order and with similar prominence, but with flexibility for how that is best achieved in the specific context of an online or mobile app disclosure. We also support the additional flexibility the instructions provide for funds to add tools and features to annual reports that are posted on the fund website or are otherwise provided electronically, while taking steps to ensure these additional features do not obscure required disclosures. We agree that permitting and encouraging these design features has the potential to allow for a more interactive and user-friendly experience and, thus, to improve investor engagement.[11]

In short, we believe the Commission has done an excellent job of providing firms with the flexibility and legal certainty they need to experiment with new forms of electronic disclosure while taking important steps to guard against abuse. We look forward to seeing how firms take advantage of this new flexibility to demonstrate the potential for electronic delivery to improve investor engagement with and understanding of disclosures.

F. CFA would oppose eliminating the requirement to deliver semiannual reports.

The Commission requests comment on alternative requirements for transmitting semi-annual reports, including by allowing funds to satisfy the requirement by filing certain information on Form N-CSR or by updating certain information on a fund website. CFA opposes these and any similar steps that would enable funds to satisfy their delivery obligations for semiannual reports without actually delivering the reports. There is no evidence, nor any reason to believe, that most investors would actually see the updated information under these alternatives.

Research conducted by and on behalf of Broadridge clearly indicates that this would also run contrary to investor preference.[12] Asked about current shareholder reports, for example, more than 80% of survey respondents said the current twice-yearly delivery is "about right." Moreover, when asked about how frequently they would prefer delivery of a summary document, they were more likely to say they would like to receive the documents more frequently rather than less frequently. Specifically, 44% said they would prefer to receive the concise shareholder reports twice a year, 42% said they would like to receive them quarterly, and only 13% said they would like to receive them just once a year.

In short, the Commission was right not to adopt these alternative approaches in its proposal, and it should hold firm on that decision when it finalizes the rule.

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[11] At the same time, clarifying that any additional information provided would have the same status under the federal securities laws as any other website or electronic content produced or disseminated by the fund provides an important safeguard by making funds accountable for the information provided.

[12] Broadridge, Summaries of Annual and Semiannual Shareholder Reports: Investor Testing and Cost Savings Information (April 2020)., https://www.sec.gov/comments/s7-12-18/s71218-7124539-216090.pdf.

G. The Commission should engage in further research before determining to eliminate the annual prospectus update requirement.

The proposal would eliminate the requirement for funds to send annual prospectus updates following the initial purchase in an open-end fund. We understand the logic behind this proposal, which recognizes the prospectus as the primary document to inform investors' initial purchase decisions and recognizes the annual and semiannual shareholder reports as the primary documents to inform fund shareholders about their existing fund investments. And we appreciate the steps the Commission has taken to incorporate certain information from the prospectus in the shareholder reports to help to ensure that these reports effectively fill this function. In particular, the addition of a section on material changes in the tailored shareholder report represents a clear improvement over how this information has traditionally been conveyed to investors.

However, we do have reservations about this approach. We are concerned, for example, that many investors will not get the full benefits of the proposed revisions to the prospectus fee summary, expense illustration, and improved risk disclosures, as they will not receive the updated prospectuses in which those disclosures appear for their existing fund investments. Given the choice, we believe many funds will stop sending these updates, leaving investors to seek out the information themselves. We believe few investors are likely to make that effort, particularly since they would not even receive a notice that an updated prospectus has been issued.

Before adopting this approach, we would like to see the Commission conduct additional research regarding investor preferences. In explaining why it adopted this approach, the Release cites a few responses to the Fund Investor Experience request for comment suggesting that some investors believe they are getting too frequent disclosures. The only real data we've seen that addresses this topic, however, is research conducted by and on behalf of Broadridge, discussed above, which found that investors generally like the frequency with which they currently receive disclosures.[13] While that research focused on the frequency of delivery of shareholder reports, it has potentially broader implications. In particular, that research suggests that providing the disclosures in a concise format actually increases investors' interest in receiving disclosures more frequently. While it is not conclusive, it suggests that investors might value receiving a summary prospectus in addition to the annual and semiannual reports. (Moreover, the percentage who value receiving those documents annually might increase if the summary prospectus were given the same kind of investor-friendly facelift that this proposal provides to the tailored shareholder reports.)

On the other hand, research might show that delivery of the concise shareholder reports diminishes investors' interest in receiving the prospectus updates. If that is the case, that would provide support for the Commission's proposed approach. As noted above, we believe this is an area where investor preference should weigh heavily in the policy decision. In order to ensure that investor preferences are considered in making this determination, we urge the Commission to conduct additional research on this topic before concluding that the annual prospectus update requirement should be eliminated.

[13] Broadridge, Summaries of Annual and Semiannual Shareholder Reports: Investor Testing and Cost Savings Information.

If the Commission determines through additional research that elimination of the annual prospectus update requirement is appropriate, we believe it has outlined a generally appropriate approach for doing so. In particular, we strongly support the requirement for funds to continue to provide timely notice of material changes to the fund, in addition to requiring disclosures regarding those material changes in the annual shareholder report. This will help to ensure that investors are alerted to changes, such as a material change in investment strategy or an increase in fund expenses, in a timely manner that could affect their decision to retain their existing fund investments. As a result, investors would benefit from a clearer presentation of material changes in the tailored shareholder reports without losing the benefits of timely disclosure of those changes.

II. CFA Strongly Supports Amendments Narrowing the Scope of Rule 30e-3

When rule 30e-3 was first proposed in 2015, CFA wrote in strong opposition to the rule on the grounds that its meagre cost savings did not justify the risk that defaulting investors to electronic delivery based on negative consent would lead to a greater misalignment between investors' delivery preferences and actual practice.[14] The well-meaning, but convoluted approach adopted by the Commission in the final rule – requiring funds to mail notices to investors each time a report becomes available online – did not adequately address that concern. In December 2017, shortly before the Commission's approval of rule 30e-3, the SEC's Investor Advisory Committee had issued a recommendation in which it urged the Commission to adopt instead a layered approach to shareholder reports, in which investors would receive a brief summary of key information from the annual report in a disclosure notifying them of the full report's availability online.[15] The IAC suggested that "allowing funds to satisfy their delivery obligations through delivery of a summary document could produce many of the cost savings associated with the SEC's 30e-3 proposal without presenting the same concerns that disclosure effectiveness would be compromised."

The current proposal would effectively achieve that goal by amending the scope of rule 30e-3 to exclude investment companies registered on Form N1A. These funds would instead be required to send tailored annual and semi-annual reports. We strongly support the proposed approach, which moves away from a notice and access delivery model that is poorly suited for retail investors and toward a model that requires direct transmission of the concise shareholder reports. As the Commission suggests, this would better reflect shareholder preferences. More importantly, it offers a more-effective means of improving investors' ability to access and use fund information than continuing to permit open-end funds to rely on rule 30e-3, while also delivering significant cost savings over requiring delivery of 100+ page shareholder reports. We strongly support its adoption. Indeed, unless the scope of rule 30e-3 is narrowed, as proposed

[14] Comment Letter from CFA Director of Investor Protection Barbara Roper regarding Investment Company Reporting Modernization, File No. S7-08-15 (Jul. 29, 2015), https://www.sec.gov/comments/s7-08-15/s70815-40.pdf.

[15] SEC Investor Advisory Committee Recommendation, Regarding Promotion of Electronic Delivery and Development of a Summary Disclosure Document for Delivery of Investment Company Shareholder Reports (Dec. 7, 2017), https://www.sec.gov/spotlight/investor-advisory-committee-2012/recommendation-promotion-of-electronic-delivery-and-development.pdf.

here, the proposal is unlikely to deliver the promised benefits, since many investors would never see those tailored shareholder reports.

The Commission asks whether it should give open-end funds the choice of whether to continue to rely on rule 30e-3, and some industry participants are urging the Commission to do just that.[16] It should not. Rule 30e-3 was a poorly conceived rule, advanced at the behest of industry over strong objections from investors. The Commission is to be congratulated for proposing to replace that rule with this far more investor-friendly approach. If it were to backtrack by allowing funds to choose which delivery method to use, investors would likely lose many of the benefits of this layered approach to disclosure.

The Investment Company Institute argues in its comment letter on this proposal that fund managers, as fiduciaries, should be free to choose the most effective option for transmitting disclosure documents to fund investors.[17] We disagree. How to receive disclosures is an individual decision best left to individual investors, not fund managers. Worse, simple logic suggests that those funds where investors would benefit most from receiving the concise disclosures would be most likely to opt to rely on rule 30e-3. For example, funds that don't want to highlight their high costs or poor performance could choose the more opaque delivery option permitted under rule 30e-3, and many investors would likely never take the steps needed to track down and read those disclosures. As a result, investors would be least likely to get the benefits of concise disclosure when they need it most.

Instead of retaining the ability of funds to rely on rule 30e-3, the Commission should consider rescinding it entirely. As it notes in the proposing release, this would require the Commission to come up with a layered disclosure framework consistent with the shareholder report requirements of the different types of investment companies that currently are permitted to rely on the rule. As a preliminary step, therefore, the Commission should study whether these investors, such as those who invest in registered closed-end funds and BDCs and ETFs that are organized as unit investment trusts, would derive similar benefits from a layered approach to disclosure that requires delivery of concise shareholder reports. This could be considered in the context of the broader reimagining of disclosure for the digital age advocated in our previous letter. We believe the potential benefits are significant.

III. Information that is Required to be Filed on Form N-CSR Should be Tagged

As noted above, we strongly support the proposed approach of requiring concise reports to be delivered to investors while allowing other more detailed, technical information to be filed with the Commission on Form N-CSR and posted online. We agree that the concise reports, on their own, would not satisfy the information needs of investors who desire more in-depth information, of financial professionals, of other market participants, or indeed of the

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[16] *See, e.g.,* Comment letter from Susan Olson, General Counsel, and Dorothy Donohue, Deputy General Counsel, Securities Regulation, Investment Company Institute, regarding SEC Proposal on Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements (File No. S7-09-20) (Dec. 21, 2020), https://www.sec.gov/comments/s7-09-20/s70920-8186011-227164.pdf.
[17] *Id* at 3-4.

Commission itself. We therefore strongly support requiring funds to make the information filed on Form N-CSR available on their website and to deliver it, free of charge, upon request.

We are disappointed, however, that the proposal would not require Form N-CSR to be filed in a structured machine-readable format, or "tagged." This is a huge missed opportunity that should be corrected before the rule is finalized. While few retail investors are likely to carefully analyze the more detailed, technical information provided in the online disclosures – such as complete, audited financial statements and the detailed discussion of financial highlights – they can still benefit indirectly if third parties are able to aggregate and analyze the information for them. This can only occur efficiently, however, if the information is tagged.

Although the Commission did not choose to include it in this proposal, the Release makes a strong argument for this approach in the economic analysis section. It states that, "Inline XBRL tagging requirement for Form N-CSR could benefit investors by enabling efficient retrieval, aggregation, and analysis of the information in Form N-CSR and by facilitating comparisons of that information across investment companies and time periods." It goes on to cite studies "suggesting that XBRL requirements increase the information content of prices, reduce the informational advantages held by insiders over public investors, heighten the relevance, understandability, and comparability of financial information for non-professional investors, and enhance the reports and recommendations published by financial analysts, thereby indirectly benefitting retail investors for whom such analysts represent a significant source of investment information." We agree.

These benefits are significant. We therefore urge the Commission to consider whether and to what extent the Form N-CSR disclosures should be tagged before finalizing this rule. As far back as 2013, the SEC Investor Advisory Committee adopted a recommendation urging the Commission to "adopt a 'Culture of Smart Disclosure' that promotes the collection, standardization, and retrieval of data filed with the SEC using machine-readable data tagging formats."[18] Consistent with that goal, the IAC urged the Commission to require each operating division within the agency "to integrate data tagging into all future rulemaking and rule revision efforts that involve the collection of data by the SEC." We supported that recommendation, which is critical to the modernization of the disclosure framework more generally and is thus appropriate to be included in this proposal.

We, therefore, urge the Commission, before finalizing this rule, to consult with those third parties most likely to make use of such data to determine which aspects of the disclosure should be tagged and to incorporate a data tagging requirement in the final rule.

IV. CFA Supports, with Caveats, the Proposed Changes to Prospectus Fee Disclosures

As the Commission has noted many times, fees and expenses are an important factor for investors to consider when investing in a fund. Indeed, keeping expenses low is one of the single most important steps investors can take to improve the long-term performance of their

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[18] Recommendations of the SEC Investor Advisory Committee Regarding the SEC and the Need for the Cost Effective Retrieval of Information by Investors (Adopted July 25, 2013), https://www.sec.gov/spotlight/investor-advisory-committee-2012/data-tagging-resolution-72513.pdf.

investments. Yet, research shows that investors struggle to understand the fees associated with their investments, including their fund investments, and often make poor choices when selecting funds. According to a recent study by professors from the University of Washington Foster School of Business, the Massachusetts Institute of Technology Sloan School of Management, and the Wharton School of the University of Pennsylvania, for example, retail investors could have saved $358 million in 2017 alone by switching from high-fee to low-fee versions of S&P 500 funds that provide nearly identical pre-expense returns.[19] As this research confirms, there is every reason to believe this phenomenon is common beyond index funds. If anything, it is logical to suppose that index investors are likely to be more cost-sensitive than fund investors generally.

This suggests to us that, despite the Commission's past efforts to improve disclosure of fund fees and expenses, more needs to be done to make these disclosures clearer and more salient to fund investors. We therefore welcome the Commission's proposals to improve fee disclosures in both the tailored shareholder reports, discussed above, and in the prospectus. As the SEC Investor Advisory Committee stated in its 2016 recommendation on this topic, "The goal should be to enhance investors' understanding of the actual costs they bear when investing in mutual funds and the impact of those costs on total accumulations over the life of their investment."[20] We agree that simplifying the fee table and simplifying the terminology used could be helpful in achieving that goal. Importantly, more detailed information would continue to be available in the statutory prospectus for investors and other market participants who want that added detail. On the other hand, we do not support the proposed approach to disclosure of acquired fund fees and expenses.

A. CFA supports adopting a simplified prospectus fee summary and example, but we believe further work is needed to refine the Commission's proposed approach.

CFA agrees that investors could benefit from simplified prospectus fee disclosures, and the approach proposed by the Commission offers real progress toward that goal. In particular, we strongly support adding dollar amount cost figures, based on a hypothetical $10,000 investment, as part of the revised fee summary. As the Release explains, research indicates that investors are better able to understand cost disclosures, and their impact, when those costs are presented in dollar amounts rather than as a percentage of assets. Also, investors have traditionally expressed a strong preference for receiving cost disclosures in dollar amounts. We therefore believe the benefits of adding dollar amount cost disclosures to the summary greatly outweigh the added

[19] Comment Letter from Ed deHaan, Yang Song, Chloe Xie, and Christina Zhu, regarding Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements - File No. S7-09-20 (Sep. 29, 2020), https://www.sec.gov/comments/s7-09-20/s70920-7860079-223917.pdf. *See, also,* Ed deHaan, et. al., Obfuscation in Mutual Funds (Sep. 29, 2020), https://ssrn.com/abstract=3540215 or http://dx.doi.org/10.2139/ssrn.3540215. The researchers found that, "the high-fee S&P 500 funds have less readable prospectuses and more complex fee structures, consistent with theory that high-fee funds attempt to obfuscate their high fees. We find similar results in a broad sample of funds, indicating that these findings are not unique to S&P 500 funds."

[20] Recommendation of the SEC Investor Advisory Committee Regarding Mutual Fund Cost Disclosure (Apr. 14, 2016), https://www.sec.gov/spotlight/investor-advisory-committee-2012/recommendation-mf-fee-disclosure-041916.pdf.

length associated with including this information. Here again, however, the Commission could and should verify the benefits of this approach through additional investor testing. Such testing might help to clarify, for example, whether investors grasp the import of costs presented as "up to" a certain amount. While testing might help the Commission to refine its approach, we strongly support retaining this information in the fee summary.

We support requiring a simplified "bottom line" disclosure of the ongoing annual fees in the fee summary, with more detailed disclosure about components of the annual ongoing fees in the full fee table available online. Particularly when accompanied by a dollar amount estimate of those fees for a $10,000 hypothetical investment, this simplified approach promises to make it easier for investors to focus on and better understand the potential impact of this most relevant ongoing cost information. As we have previously stated, we think it is important for investors to understand two basic categories of information about their fund costs: 1) what they pay when they buy and sell shares (appropriately characterized here as transaction costs) and 2) what they pay for the operation of the fund (characterized here as ongoing annual fees).[21] The Commission has done a good job of sorting the various fees into these categories. The "bottom line" disclosure of ongoing annual fees effectively captures that second category in a single line item appropriate in the context of the fee summary.[22]

While the ongoing expenses are readily consolidated in a single "bottom line" disclosure, we agree that transaction fees do not lend themselves to the same kind of consolidation. We therefore support the approach taken here of providing multiple categories of transaction fees, and we believe the Commission has done a good job of identifying the categories of fees that should be included in this part of the summary. We agree, moreover, that funds should not include line items for fees that they do not charge, as this will help to prevent the fee summary from becoming too cluttered. However, we are concerned that investors may still find the fee summary somewhat difficult to understand. We therefore encourage the Commission to test a model of the fee table with investors and to refine its approach, as necessary, based on the findings of that testing.

Similarly, we greatly appreciate the Commission's efforts to simplify the terminology used in the proposed fee summary and to provide simpler explanations of the different types of fees the investor may pay. We agree, for example, that investors are more likely to understand the term "transaction fee," and how it may differ from ongoing annual fees, than they are to differentiate between shareholder fees and annual fund operating expenses. Here again, however, we believe the proposed approach would benefit from further testing, to ensure that certain terms and descriptions are understood by retail investors. Do investors understand the meaning of the term "exit fee," for example, and how it differs from an early exit fee? Do they understand what their ongoing annual fees are for or what an exchange fee is?

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[21] As we discuss further below, it is also important for investors to understand what they pay for the services of the investment professionals they rely on for advice and recommendations across all types of investments, including funds.

[22] Note that while we believe this is appropriate for the fund summary, it is important to provide additional detail elsewhere, including with regard to transaction and research costs, as discussed above.

In short, while the proposal put forward by the Commission offers significant progress over the status quo, we believe that investor testing, and work with an expert in disclosure simplification, could produce a fee summary that is even easier for investors to use and understand. We therefore urge the Commission to conduct that additional testing before finalizing this aspect of the proposal and to use the results of that testing to further refine its approach.

B. CFA opposes the proposed approach to disclosure of acquired fund fees and expenses.

While we are generally supportive of the proposed approach to the fee summary, we do not support the proposed disclosure of acquired fund fees and expenses (AFFE). Under the proposal, funds would be permitted to exclude AFFE from their bottom line ongoing expense disclosure if the fund invests less than 10 percent of its assets in other funds. These funds would be permitted to disclose AFFE in a footnote to the fee table and fee summary, rather than reflecting the AFFE in the bottom line annual expenses, as funds are required to do today.

This would not, as the Release claims, make it easier for investors to compare the fees and expenses of funds with comparable investment strategies. Instead, as Commissioner Allison Herren Lee noted in her statement when the rule was proposed, "using the percentage invested in other funds as the trigger for disclosure, instead of using the amount of AFFE as a percentage of net assets, has the potential to obscure expense information even when it may be material."[23] Moreover, as Commissioner Lee explained, adopting this approach could have the perverse effect, in some cases, of requiring funds with lower AFFE to include those costs in its presentation of ongoing fund expenses while enabling a fund with higher AFFE to relegate that information to a footnote.[24] In such cases, the retail investors who rely on those disclosures could be misled into believing that the higher cost fund is actually the lower cost option.

A better approach, as Commissioner Lee suggested, would be to base the disclosure requirement not on the percentage of fund assets invested in other funds, but rather on the amount of AFFE as a percentage of net assets. This would have the desired effect of streamlining fee disclosures and improving the comparability of these disclosures while also ensuring that, where AFFE is material to the overall cost of the fund, it has to be reflected in the ongoing fund expenses. We strongly encourage the Commission to consider such an approach before finalizing the rule.

C. The Commission should seek to improve disclosure associated with payments to financial intermediaries.

We understand the Commission's reasons for deciding not to include separate brokerage commissions and other fees to financial intermediaries, such as the commissions charged when

[23] Commissioner Allison Herren Lee, Statement on Proposed Summary Shareholder Report (Aug. 5, 2020), https://www.sec.gov/news/public-statement/lee-open-meeting-summary-shareholder-report-2020-08-05.
[24] *Id.* ("For example, compare a mutual fund that invests just below 10% in funds with very high expense ratios with a mutual fund that invests slightly more than 10% in funds with low expense ratios. The former likely has a higher total AFFE than the latter in this example, but the fund with the higher AFFE would not be required to include it in the presentation of its ongoing annual fees.")

selling ETFs or "clean shares," in the mutual fund fee summary. As the Commission explains in the Release, financial intermediaries that distribute funds, rather than the funds themselves, typically determine such fees. As a result, the amount of such fees can vary across financial intermediaries and distribution channels. This makes the fund disclosure documents a poor fit for disclosing this information.

We are concerned, however, that investors have a generally poor understanding of the amounts they pay for the services of financial intermediaries, just as they do for fund fees and expenses. Indeed, it is not uncommon for investors to believe that their brokers' services are provided for free. The disclosures adopted in Form CRS and Regulation Best Interest did not adequately address that problem. While this proposal may not be the appropriate vehicle for addressing it, because the issue is broader than intermediary costs associated with fund investments, we encourage the Commission to continue to pursue additional disclosure reforms designed to ensure that investors are better able to understand the costs they pay for the services provided by broker-dealers and investment advisers. Such reforms are long overdue.

D. CFA generally supports the proposed simplified example.

The Commission proposes to simplify the example in the fee summary by decreasing the number of time periods shown from four (1-, 3-, 5-, and 10-year) to two (1- and 10-year). We agree that having fewer time periods would help to simplify the example, and including both the shortest and longest of these time periods should maximize investors' ability to weigh the short- and long-term impact of fees. That said, we would encourage the Commission to test investors' response to this approach, as well as an alternative approach that includes 1-, 5-, and 10-year time periods.

We also support the Commission's decision to base the fee example in the prospectus on hypothetical, forward-looking expenses, rather than adopting the backward-looking focus of the shareholder report. While the forward-looking information has its limitations, it provides information that is easily compared across different funds. That is appropriate for a document that is designed primarily as a selling document. The shareholder report serves a different purpose, and adopting a backward-looking example based on actual past performance is appropriate for that document.

E. The Commission should test the revised fee disclosures for effectiveness, including disclosures regarding portfolio turnover.

There are good reasons to believe that the Commission's proposed approach would improve investors' willingness to read and ability to understand mutual fund fee disclosures. However, as noted above, we would prefer to see that assumption verified by additional investor testing. Such testing could be used by the Commission to refine its approach, maximizing the likelihood that investors will derive the full intended benefits from the proposed reforms. As always, the goal of testing should be to determine not just whether investors "like" the disclosures, but also whether they are able to use them to better understand the costs and expenses associated with their fund investments and the potential impact those costs could have on their long-term investment success.

For example, the Commission should test whether disclosing portfolio turnover actually "helps investors understand the effect of portfolio turnover, and the resulting transaction costs, on fund expenses and performance," as the Commission suggests. We suspect that the answer for many investors is that it does not. That is one reason we believe the Commission needs to do more to disclose actual transaction and research costs, albeit not necessarily in the fee summary, and to tag that data. Disclosing and tagging the data would enable third parties to aggregate and analyze that information and present it in a user-friendly form. Short of that, testing would help to ensure that disclosures about portfolio turnover are presented in a way that maximizes the utility for investors.

V. CFA Strongly Supports Revising Risk Disclosures to Focus More Clearly on Principle Risks, but Believes the Proposed Approach Should be Refined

CFA strongly supports revising prospectus risk disclosure to better focus those disclosures on the fund's principle risks. While some funds do a better job than others, in our experience, the current risk disclosures often amount to little more than a boilerplate listing of all or virtually all possible material risks. These disclosures do little or nothing to help investors understand which risks are most relevant to the stated investing goal of the fund or to weigh how risky the fund is relative to other similar available options. Toward that end, we support the proposal's focus on ensuring risk disclosures in fund summaries are brief. As the Release documents, disclosures provided by some funds in these summary documents far exceed what anyone would reasonably characterize as a "summary" of principle risks. Focusing fund risk disclosures on essential information, pruning the non-essential information, and discouraging generic risk disclosures are all important steps to address this problem, though they may still fall short of what is needed to provide investors with the information investors need to determine which funds best match their own risk profile.

Specifically, while we strongly support requiring funds to present their risks in order of relative importance, we believe the proposal could benefit from further thought about what makes a risk "important." The proposal leaves that determination to funds, which could use "any reasonable means" of determining the significance of risks. While this is appropriate to an extent, we encourage the Commission to make clear that funds should consider as important, not just risks that could cause losses of principle, but also those risks that are most likely to prevent the fund from achieving its stated investment goal. For a fund that is designed to provide income, for example, risks that could prevent the fund from providing a steady stream of income would be important. For a fund that is designed to provide long-term capital growth, risks that could prevent it from achieving that goal would be important. This is not to suggest that risk to principle is unimportant, but rather that too narrow a focus on risk to principle could prevent funds from focusing on additional information that may be even more relevant to its investors in certain circumstances.

While we appreciate the Commission's attempt to come up with a standardized, quantitative measure of principle risk, we are concerned that the proposed approach may not work as intended. Specifically, where a diversified fund has several types of assets with different risk characteristics that are intended to balance each other out, the requirement to disclose the principal risks to each of those asset types could result in a different type of laundry list of risks – each highly relevant to a portion of the fund's assets, but not necessarily a principal risk when weighed against the portfolio as a whole. We are not experts in portfolio management, however, and we recognize that our concerns may be misplaced. However, we would encourage the Commission to test this approach against some common portfolio types to ensure that it functions as intended before finalizing the rule.

VI. CFA Strongly Supports Proposed Changes to the Advertising Rules

The Commission has taken important steps in the past to promote comparability regarding performance claims and prevent misleading presentations of performance in fund advertisements. It now proposes to do the same with regard to marketing based on costs. Specifically, the rule would require a registered investment company or business development company (BDC) advertisement that discusses fees and expenses to include certain standardized figures and provide reasonably current information. It would also prohibit potentially misleading statements about fees and expenses in these advertisements. We strongly support this proposal.

We agree that "investors in any registered investment company or BDC would benefit from advertisements that provide consistent, standardized fee and expense information that is generally aligned with prospectus fee and expense information. Toward that end, we support the rule's broad application to all types of registered investment companies and BDCs. We also support requiring funds that provide fee and expense figures in their advertisements to include the maximum amount of any sales load or other nonrecurring fee, and the total annual expenses without any fee waiver or expense reimbursement arrangement are the appropriate cost figures to require. We agree that this approach would "promote consistent fee and expense computations across investment company advertisements" and "facilitate investor comparisons." We further agree that it is appropriate to allow funds to include other fee and expense figures, so long as the mandated information is at least as prominent. Finally, we support the requirement that both expense figures and narrative information would have to be up-to-date, so that funds could not use stale or outdated information in their advertisements.

In addition to prescribing information funds must include when making statements regarding fund fees and expenses in advertisements, the Commission also proposes to restrict statements and representations about fees or expenses that could be misleading. We share the Commission's concern that, as funds are increasingly marketed on the basis of costs, "investment companies and intermediaries may in some cases understate or obscure the costs associated with a fund investment." Specifically, the proposed amendments are designed to address concerns that investment company advertisements "may present a fund's fees and expenses in a way that materially misleads an investor to believe that the costs associated with a fund investment are lower than the actual investment costs," by marketing themselves as "zero expense" or "no expense funds" without mentioning other costs investors would incur when investing in the fund. We congratulate the Commission for focusing on total costs to investor, including intermediary costs, when considering whether these claims are misleading. We agree that the Commission's proposed approach would help to prevent investors from being misled by such claims.

VII. Conclusion

The Commission is to be commended for producing such a thoughtful, investor-focused proposal to modernize the disclosure framework for investment funds. While there are areas where we support revisions to the proposed approach, this proposal offers a number of significant improvements over the current approach to fund disclosure and advertising. We strongly support its eventual adoption, once the approach has undergone investor testing and additional refinements based on the results of that testing to maximize the effectiveness of the proposed changes. We look forward to working with the Commission to achieve that goal.

Respectfully submitted,

Barbara Roper

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cc: Acting Chairman Elad L. Roisman
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