



Securities Industry Association

120 Broadway - 35 Fl. • New York, NY 10271-0080 • (212) 608-1500, Fax (212) 968-0703 • www.sia.com, info@sia.com

September 17, 2004

Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street N.W.
Washington, D.C. 20549 – 0609

Re: File No. SR-NASD 2004-043 Proposed NASD Rule
Change Relating to Disclosure of Fees and Expenses in
Mutual Fund Performance Sales Material.

Dear Mr. Katz:

The Investment Company Committee of the Securities Industry Association (SIA)¹ appreciates the opportunity to comment on the above referenced NASD rule proposal, which the Commission published for comment on August 20, 2004 in accordance with Sections 19(b)(1) of the Securities Exchange Act of 1934 and Rule 19b-4 thereunder.

Prior to filing the rule proposal with the Commission, NASD published the rule for public comment, and pursuant to the NASD request for comment, SIA filed a comment letter with the NASD on January 22, 2004.² A copy of that letter is enclosed. The January 22nd letter raised a number of concerns with the NASD proposal, including, but not limited to, the possibility that it would engender requirements that were at best duplicative of, and at worst, inconsistent with, existing or proposed SEC rules. While

¹ The Securities Industry Association, established in 1972 through the merger of the Association of Stock Exchange Firms and the Investment Banker's Association, brings together the shared interests of nearly 600 securities firms to accomplish common goals. SIA member-firms (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. According to the Bureau of Labor Statistics, the U.S. securities industry employs 790,600 individuals. Industry personnel manage the accounts of nearly 93-million investors directly and indirectly through corporate, thrift, and pension plans. In 2003, the industry generated \$213 billion in domestic revenue and an estimated \$283 billion in global revenues. (More information about SIA is available on its home page: www.sia.com).

² Letter from Stuart R. Strachan, Chair, SIA Investment Company Committee to Barbara Z. Sweeney, NASD Office of the Corporate Secretary, January 22, 2004.

some of the concerns raised by SIA and other commentators are addressed in modifications to the rule proposal filed with the Commission, SIA's principal concerns, including the possible lack of regulatory uniformity, remain unaddressed. Therefore, we strongly urge the Commission not to take any final action with respect to the NASD filing until the issues set forth in the enclosure have been fully addressed, and the Commission has taken final action on its pending point of sale/confirmation proposal.³

In closing, we would also note that the Commission published the NASD proposal for comment during one of the busiest vacation periods of the year, and only provided a 21 business-day comment period. Therefore, we would hope that the Commission would not construe any shortage of comment letters submitted as an indication of broad based support for the NASD rule proposal.

Any questions regarding this letter or enclosure should be directed to Michael Udoff of SIA staff.

Sincerely,

Stuart R. Strachan
Chairman,
Investment Company Committee

enclosure

cc: Robert L. Colby, Esq.
Angela Goelzer, Esq.

³ File No. S7-06-04.