Testimony Concerning SEC's Mutual Fund Oversight

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Chairman Cannon, Ranking Member Watt, and Members of the Subcommittee:

I am Lori Richards, Director of the Securities and Exchange Commission's Office of Compliance Inspections and Examinations ("OCIE"). Thank you for inviting me to testify today on behalf of the SEC about the SEC's oversight of the mutual fund industry, the recent mutual fund trading abuses and recent GAO reports concerning the SEC's examination and enforcement actions with respect to these abuses (GAO-05-313 and GAO-05-385). In the wake of the abuses, the SEC moved quickly to implement a series of mutual fund reforms. The SEC: (1) rapidly examined and investigated fund firms, and brought numerous enforcement actions involving abusive market timing and late trading; (2) adopted new rules designed to improve mutual funds' governance, ethical standards, compliance and internal controls, and disclosures to investors; (3) initiated reforms to SEC rules designed to address market timing and late trading; and (4) improved the ability of the SEC's examination program to detect emerging compliance problems promptly. It is the SEC's expectation that, taken together, these reforms will minimize the possibility of the types of abuses we have witnessed in the past 21 months from occurring again.

I have attached as an appendix a summary of the recent new and proposed new rules with respect to mutual funds, as well as a list of the SEC enforcement actions involving abusive market timing and late trading. My testimony today will focus primarily on the significant steps the SEC has taken with respect to its examination oversight of mutual funds.

I. SEC's Examinations of Mutual Funds

With more than 92 million Americans invested in mutual funds, representing tens of millions of households, and approximately $8 trillion in assets, mutual funds are a vital part of this nation's economy. Millions of investors depend on mutual funds for their financial security.

The SEC staff conducts compliance examinations of mutual funds and investment advisers. There are now some 8,000 funds, managed in over 900 fund complexes, and over 8,000 investment advisers. Until recent years, the SEC had approximately 360 staff persons for these examinations. In 2003, budget increases allowed the SEC to increase its staff for fund examinations by a third, to approximately 500 staff. The size of the mutual fund industry precludes a comprehensive audit of each registrant's operations by examination staff. Staff examinations, therefore, focus on those areas that, in the staff's view, pose the greatest risk to investors.

Examinations identify compliance problems at individual firms, and also help to identify areas of emerging compliance risk in the fund industry generally. Prior to 2003, the focus of SEC examinations was on conflicts of interest in the management of mutual funds, and in particular, whether funds were trying to inflate the returns of the fund, or take on undisclosed risk. The

concern was that, in attempting to produce strong investment returns to attract and maintain shareholders, fund portfolio managers and other employees had an incentive to engage in misconduct in the management of the fund. The staff focused on these areas not only because of the risks posed, but also because past examinations had identified problems in these areas, and there was concern that the problems could be more widespread. As a result, examination protocols required that significant attention be focused on portfolio management, order execution, allocation of investment opportunities, pricing and calculation of net asset value, marketing of returns, and safeguarding fund assets from theft. SEC examiners identified a number of practices that can harm investors, including, for example, abusive soft dollar arrangements, favoritism in the allocation of investments, misrepresentations and omissions in the sales of fund shares, inaccurate pricing of fund shares, the failure to obtain best execution in portfolio transactions, sales practice abuses in the distribution of different classes of mutual fund shares, and the failure to give customers the discounts (called "breakpoints") generally available on large purchases of fund shares.

Since the first instances of market timing and late trading at several fund firms were identified by a tip and a subsequent investigation by the New York Attorney General's Office in September 2003, the SEC moved rapidly to investigate this issue in the broader mutual fund industry. The Commission initiated immediate examinations and investigations of a large number of market participants to determine whether they engaged in undisclosed abusive market timing and late trading in fund shares. As of May 31, 2005, the Commission has brought 29 enforcement actions involving mutual fund complexes and their employees, and 12 enforcement actions involving broker-dealers and their employees. The recent GAO report outlines some of these

enforcement actions, and recognizes that the penalties obtained in these cases are among the highest imposed by the SEC. The GAO found that the SEC followed a consistent process for determining penalties and that the SEC coordinated penalties and other sanctions with interested state regulators.

Also as part of this study, GAO examined the SEC's criminal referral process. While the SEC does not itself have authority to make criminal prosecutions, working with the criminal authorities is a critical component to effective enforcement of the securities laws. Senior enforcement officials consistently review matters under their responsibility for referrals to criminal authorities. The SEC has delegated to the staff at a senior level, the authority to discuss any matter with the criminal authorities to determine their interest. The staff has also been delegated authority to provide access to any documents to these authorities. The staff works with the criminal authorities on a regular basis, such as on the Corporate Fraud Task Force, and holds regular meetings with U.S. Attorneys Offices and state prosecutors, so that there is an open line of communication and effective relationships have developed. This process, while informal, has proven to be highly effective. In fiscal year 2004, the SEC coordinated with 41 U.S. Attorney's Offices and 8 state prosecutors on 159 indictments or informations for 302 individuals. In the mutual fund trading abuse area the SEC coordinated extensively with the criminal authorities. Criminal authorities are aware of all SEC investigations relating to mutual fund market timing abuses. The criminal authorities have evaluated each of these matters for their appropriateness for a criminal prosecution. GAO has recommended that the SEC track referrals to the criminal authorities and the staff is in the process of converting its case opening form to a web-based application, which will provide for documentation of referrals to criminal authorities.

The GAO notes that prior to September 2003, SEC examination staff did not detect the abusive and secret market timing arrangements that fund executives had with select traders. It is important to note that the illegal market timing involved secret arrangements between fund executives and select market timers allowing the timers to engage in more frequent trading than the fund's prospectus or other internal policies allowed. Some of the arrangements involved nominee accounts and false trading records. These were covert, non-disclosed arrangements. In fact, many fund firms stated at the time that they deterred market timers, and had even hired "market timing police" to prevent this type of trading. The SEC did not have prior notice of these secret arrangements that some mutual fund executives had with favored traders.

It is important to distinguish between the market timing that was illegal (involving covert agreements described above) and the market timing that was not illegal. As the GAO notes, market timing itself is not illegal – traders attempt to "arbitrage" securities held in mutual funds because of the way mutual fund securities are priced each day. Most mutual funds price their shares at 4pm ET, by using the closing market price of the securities in the fund. For securities traded on a foreign exchange, the foreign market may have closed many hours earlier. If an event affecting the value of the portfolio securities occurs after the foreign market closes but before the fund prices its shares, the foreign market closing price for the portfolio security will not reflect the current value of those securities. Traders may attempt to purchase fund securities with knowledge that the prices are "stale" and do not reflect these intervening events. While not illegal, this short term trading may disadvantage the fund's long-term investors by imposing trading costs, disrupting the management of the fund's portfolio and extracting value from the fund.

To help combat frequent trading, the SEC recently adopted rules requiring that mutual funds better disclose their policies with respect to market timing, and allowing mutual funds to impose redemption fees to discourage short-term trading. As GAO notes in its report, the ability to arbitrage mutual funds may also be diminished if mutual funds take steps to "fair value" their securities by updating the price of the security with more current information. The SEC has also taken steps to provide mutual funds with improved ability to effectively enforce their market timing restrictions with respect to those shareholders who purchase fund shares through intermediaries (such as broker-dealers and retirement plan administrators).

GAO stated that the SEC can learn lessons from its experience with market timing. In addition to the regulatory and enforcement actions the Commission has taken, OCIE instituted a number of improvements to the examination process. OCIE implemented changes to our examination protocols that will aid examiners in being able to detect these types of abuses in the future, and importantly, to detect additional types of fraudulent conduct. The challenge for any examination oversight program is to determine how best to use limited resources to oversee a large and diverse industry. More specifically, the challenge is to identify the areas of highest risk to investors, and to probe these areas effectively. Beginning in early 2004, OCIE shifted to a risk-based methodology for examining mutual funds and investment advisers. OCIE spots risks earlier, conduct reviews that are highly focused on identified risks, and report the results of those reviews to the Commission. This new methodology allows the staff to move more quickly, to be more nimble, and to be more responsive to the rapidly changing risk environment in the fund community. This new risk-based approach has involved a number of specific program

enhancements, summarized below (key enhancements are described in more detail later in the testimony). SEC examination staff have:

- Focused routine examinations on high-risk firms: with the additional resources added to the examination program in 2003, OCIE increased examination frequency of the largest fund firms, and those fund firms posing the greatest compliance risk (from once every five years, to once every two or three years -- prior to 1998, examination cycles had been as infrequent as once every 12-24 years). Other firms are examined "for cause," in sweeps, or randomly;

- Increased the use of technology and data;

- Implemented a new "Risk Mapping" method to identify new or emerging areas of compliance risk, and worked closely with the SEC's new Office of Risk Assessment to help identify and coordinate areas of risk across the agency;

- Implemented a new program to rapidly investigate emerging compliance problems promptly by use of "sweep examinations;"

- Increased the use of interviews during examinations, as part of the assessment of a firm's control or risk environment;

- Worked with an SEC task force to study the possible use of data as part of a surveillance program for funds and advisers;

- Initiated new dedicated "monitoring team" program for certain large advisers; and

- Initiated a new "Chief Compliance Officer Outreach" program to help new mutual fund and investment adviser chief compliance officers identify and resolve compliance problems at their firms.

As GAO notes in its report, prior to the identification of market timing abuses in 2003, in late 2002, SEC examiners adopted an approach for routine examinations designed to evaluate the quality of fund firms' own internal compliance controls, including by testing those controls in key operational areas. To better detect market timing, in 2003, SEC added a review of a fund's daily sales and redemptions data, which can reveal patterns of trading in a fund's shares that may indicate market timing. Additionally, because the covert arrangements that fund executives had with select shareholders were often evidenced only in e-mail communications and not in written agreements, contracts, or other documents, SEC examiners now frequently request e-mail communications during examinations (past routine examinations did not include a random review of employees' e-mail communications, unless there was cause to believe that particular communications were relevant to the examination). Additional new examination steps include a review of personal trading records showing trading in the fund shares by select fund executives. Previously, SEC rules did not require fund executives to report internally their trading in their fund shares. In July 2004, the SEC closed this loophole, and required that fund executives report

all of their trades to fund compliance officials for review. This broader reporting requirement, which had already been adopted by a number of fund groups when the Commission adopted it, is designed to give fund managers a better tool to monitor their employees who might be tempted to market time their own funds.

More broadly, to identify emerging areas of compliance risk promptly, the examination program now includes an extensive "Risk Mapping" exercise. All examiners, from the most junior to the most senior, participate in small focus-group-like discussions about the compliance risks they have perceived in the securities industry. Participants identify risks, map them to relevant mitigating and aggravating conditions, and propose possible compliance and regulatory solutions. The risks are then divided into national risks, those requiring an immediate response across the program, and emerging risks, those requiring attention, but not a full-scale immediate response. In addition to reviewing and testing controls in key high-risk areas, GAO recommends that SEC request lists of all compliance-related reports from fund firms during examinations. The SEC is evaluating this recommendation. Finally, to aid in the effort to identify issues posing risk, examination staff conducts a small number of "wall-to-wall" examinations designed to comprehensively probe fund operations to assist in detecting areas of emerging compliance risk that may not be indicated by other means.

The examination program now includes risk-targeted sweeps. In a risk-targeted sweep, staff review a risk or potential violation across a number of different firms. In terms of methodology, this is a "horizontal" review. That is, staff look at the risk area across several firms, as compared to a "vertical" review where it would look at a single firm from top to bottom. Risk targeted

sweeps provide several important advantages. As soon as a developing risk is identified, an examination team is deployed to look into it. In many cases OCIE begins with a small sample of firms. If the risk appears serious OCIE may expand the size of the sample, and include more firms. When completed, OCIE has examination results from a defined sample of firms that have been visited in a roughly contemporaneous period of time. This allows OCIE to make sound inferences about the nature and danger of the risk in the industry generally. As an example of this examination technique, the SEC recently released our findings from a risk-targeted examination sweep of investment advisers that provide advice to pension plans, focusing on disclosure and conflicts of interest (available at http://www.sec.gov/news/studies/pensionexamstudy.pdf).

Finally, OCIE continues to develop additional program enhancements. For example, OCIE's examination program will soon include monitoring teams for the largest mutual fund complexes. Teams of examiners will be assigned to each mutual fund group, will get to know the business and operations of the complex, and will visit it regularly.

The SEC is also exploring ways to better spot indications of aberrant conduct outside of the examination process. Chairman Donaldson formed an SEC staff task force to study surveillance of advisers and funds and to explore how the staff can enhance its oversight of the industry. The goal of such a surveillance program would be to identify indications of problems, and then target the particular fund or adviser for follow up inquiry by telephone, letter, or on-site visit. Staff would also be able to examine the relevant data -- industry-wide -- to determine if a systemic problem is emerging. Surveillance systems already protect other significant classes of financial

assets and the task force is exploring whether similar surveillance can be deployed to protect those who invest in mutual funds or entrust their money to investment advisers.

More fundamentally, the SEC has recently put new rules into place that are designed to improve compliance by funds and advisers by requiring that they strengthen their own internal compliance programs. The new rules require that advisers and funds implement and maintain written compliance policies and procedures designed to prevent, detect, and correct compliance problems in key areas of their operations. The new rules also require that funds and advisers designate a chief compliance officer to implement those compliance policies and procedures, and, in order to assist the fund board in exercising compliance oversight, that fund's chief compliance officer report on compliance matters to the fund's board of directors. GAO has recommended that SEC examinations seek to assess the "independence and effectiveness" of these new chief compliance officers during examinations. Consistent with this recommendation, OCIE has been assessing their role since the new rule went into effect last October, and is preparing guidance for SEC exam staff. GAO suggested that the SEC develop a plan to receive and review funds' annual compliance reports to their boards of directors on an ongoing basis. The staff is considering this recommendation.

Finally, GAO suggested that the SEC enhance its procedures to avoid ethical conflicts of interest, especially by examiners who leave the SEC to work for a private firm. The SEC has worked to establish and maintain the highest levels of ethics and integrity across the agency. Within the examination program, in 1997 the staff developed a series of ethics guidelines for examiners that exceed the standards of the Office of Government Ethics. These guidelines are intended to

assure staff independence in conducting examinations. They include guidance on how to avoid conflicts of interest while examining a registrant, what to do when seeking employment outside the SEC, how to handle personal conflicts, how to address situations where employment or relationships with a spouse or personal friend creates a potential conflict, and numerous other issues. SEC staff also receive training on ethics, including periodic refresher courses specifically for examiners. OCIE recently instituted several enhancements to the ethics program. OCIE now has at least one ethics official in the examination program of each of the SEC's regional and district offices to provide advice and guidance to examination staff on issues they encounter, and special training sessions are planned for these new ethics officials. Finally, as GAO suggested, the SEC is in the process of establishing a process for requesting information from departing staff regarding the individual's new employer.

We also strongly believe in vigorously continuing our outreach program to the industry. It is important that the industry understand the concerns of the Commission and our examination approach. It is also vitally important that we receive input and feedback from the industry about our process.

II. Conclusion

In sum, the SEC has taken aggressive steps to address abusive trading in mutual fund shares, to detect abusive conduct and more broadly, to improve funds' compliance programs to protect investors.

Thank you. I would be pleased to answer any questions you may have.

SEC Mutual Fund Initiatives

For informal, informational purposes only.
Prepared by the SEC's Office of Legislative Affairs
Consists primarily of information found in SEC press releases.
For complete information, please refer to official SEC postings on ***www.sec.gov***

COMMISSION ACTIONS:

Amendments to Rules Governing Pricing of Mutual Fund Shares – Late Trading

On **December 3, 2003**, the Commission proposed a rule requiring that fund orders be received by 4:00 p.m. Specifically, this proposal would require that an order to purchase or redeem mutual fund shares be received by the mutual fund — or its primary transfer agent or a registered securities clearing agency — by the time that the fund establishes for calculating its net asset value in order to receive that day's price (typically 4:00 p.m. for most funds). This rule would effectively eliminate the potential for late trading through intermediaries that sell fund shares. Comment period ended on February 6, 2004.

- *Press Release:* http://www.sec.gov/news/press/2003-168.htm
- *Proposed Rule:* http://www.sec.gov/rules/proposed/ic-26288.htm

Disclosure Regarding Market Timing and Selective Disclosure of Portfolio Holdings

On **December 3, 2003**, the Commission proposed enhanced disclosure requirements for mutual funds. Funds would be required to disclose: (1) market timing policies and procedures, (2) practices regarding "fair valuation" of their portfolio securities and (3) policies and procedures with respect to the disclosure of their portfolio holdings. This type of explicit disclosure will shed light on market timing and selective disclosure of portfolio holdings so that investors can better understand the fund's policies and how funds manage the risks in these areas. Comment period ended on February 6, 2004.
Final Rule adopted by the Commission on April 13, 2004.

- *Press Release:* http://www.sec.gov/news/press/2003-168.htm
- *Proposed Rule:* http://www.sec.gov/rules/proposed/33-8343.htm
- *Final Rule:* http://www.sec.gov/rules/final/33-8408.htm

Compliance Programs of Investment Companies and Investment Advisers

On **December 3, 2003**, the Commission **voted to adopt** rules that will require funds and advisers to: (1) have compliance policies and procedures, (2) annually review them and (3) designate a chief compliance officer who, for funds, must report to the board of directors. Designated compliance officers and written policies and procedures will have several benefits, including having a designated person charged with fund compliance who must answer to, and be accountable to, the fund's board of directors, thereby enhancing compliance oversight by directors, as well as allowing the SEC's examination staff to review the reports made to the board.

- *Press Release:* http://www.sec.gov/news/press/2003-168.htm
- *Final Rule:* http://www.sec.gov/rules/final/ia-2204.htm

Enhanced Disclosure of Breakpoint Discounts by Mutual Funds

On **December 17, 2003**, the Commission proposed amendments that would require a mutual fund to provide enhanced disclosure regarding breakpoint discounts on front-end sales loads. This enhanced disclosure will assist investors in understanding the breakpoint opportunities available to them. Comment period ended on February 13, 2004.
Final Rule adopted by the Commission on May 26, 2004.

- *Press Release:* http://www.sec.gov/news/press/2003-173.htm
- *Proposed Rule:* http://www.sec.gov/rules/proposed/33-8347.htm
- *Final Rule:* http://www.sec.gov/rules/final/33-8427.htm

Concept Release on Mutual Fund Transaction Costs

On **December 17, 2003**, the Commission issued a concept release on mutual fund transaction costs. The release seeks public comment on whether mutual funds should be required to quantify and disclose to investors the amount of transaction costs they incur; include transaction costs in their expense ratios and fee tables; provide other measures or additional disclosure that would indicate the level of a fund's transaction costs; or some combination of the above. Comment period ended on February 23, 2004.

- *Press Release:* http://www.sec.gov/news/press/2003-173.htm
- *Concept Release:* http://www.sec.gov/rules/concept/33-8349.htm

New Investment Company Governance Requirements

On **January 14, 2004**, the Commission voted to propose amendments to its rules to enhance fund boards' independence and effectiveness and to improve their ability to protect the interests of the funds and fund shareholders they serve. The proposed fund governance standards include: (1) Independent Composition of the Board, (2) Independent Chairman of the Board, (3) Annual Self-Assessment of Board, (4) Separate Meetings of Independent Directors, (5) Independent Director Staff and (6) Preservation of Documents regarding Reasonableness of Fees. Comment period ended on March 10, 2004. **Final Rule adopted by the Commission on June 23, 2004.**

- *Press Release*: http://www.sec.gov/news/press/2004-5.htm
- *Proposed Rule*: http://www.sec.gov/rules/proposed/ic-26323.htm
- *Final Rule*: http://www.sec.gov/rules/final/ic-26520.htm

Investment Adviser Codes of Ethics and Insider Reporting of Fund Trades

On **January 14, 2004**, the Commission voted to propose new rules and related rule amendments under the Investment Advisers Act of 1940. The new rule would require registered investment advisers to adopt and enforce codes of ethics applicable to their supervised persons and, for advisers to funds, to require insiders to report their trades in fund shares. Comment period ended on March 15, 2004. **Final Rule adopted by the Commission on May 26, 2004.**

- *Press Release:* http://www.sec.gov/news/press/2004-5.htm
- *Proposed Rule:* http://www.sec.gov/rules/proposed/ia-2209.htm
- *Final Rule:* http://www.sec.gov/rules/final/ia-2256.htm

Confirmation Requirements and Point of Sale Disclosure Requirements for Mutual Fund Transactions

On **January 14, 2004**, the Commission voted to propose new rules that are designed to enhance the information that broker-dealers provide to their customers in connection with transactions in certain types of securities. The two new rules would require broker-dealers to provide their customers with targeted information regarding the costs and conflicts of interest that arise from the distribution of mutual fund shares. The rules would require disclosure at two key times - first at the point of sale, and second at the completion of a transaction in the transaction confirmation. Comment period ended on April 12, 2004. On **March 1, 2005**, the Commission announced that it has reopened the comment period for and requested supplemental comments on the proposed rule. The supplemental release reflects issues raised by commenters to our initial proposal, including investor feedback from in-depth testing of prototype disclosure forms.

- *Press Release*: http://www.sec.gov/news/press/2004-5.htm
- *Proposed Rule*: http://www.sec.gov/rules/proposed/33-8358.htm
- *See also*: Attachments 1-5, Form Examples http://www.sec.gov/rules/proposed/33-8358_attach.pdf
- *Supplemental Release*: http://www.sec.gov/rules/proposed/33-8544.pdf
- *See also*: Supplemental Release Attachment, Form Examples http://www.sec.gov/rules/proposed/33-8544attach.pdf

Enhanced Mutual Fund Expense and Portfolio Disclosure

On **February 11, 2004**, the Commission **adopted** several amendments to its rules and forms that are intended to improve significantly the periodic disclosure that mutual funds and other registered management investment companies provide to their shareholders about their costs, portfolio investments, and performance. The amendments included the following: Enhanced Mutual Fund Expense Disclosure in Shareholder Reports; Quarterly Disclosure of Fund Portfolio Holdings; Use of Summary Portfolio Schedule; Exemption of Money Market Funds from Portfolio Schedule Delivery Requirements; Tabular or Graphic Presentation of Portfolio Holdings in Shareholder Reports; and Management's Discussion of Fund Performance. The new requirements will apply to shareholder reports and quarterly portfolio disclosure for reporting periods ending on or after 120 days following publication in the *Federal Register*.

- *Press Release*: http://www.sec.gov/news/press/2004-16.htm
- *Proposed Rule*: http://www.sec.gov/rules/proposed/ic-25870.htm
- *Final Rule:* http://www.sec.gov/rules/final/33-8393.htm

Improved Disclosure of Board Approval of Investment Advisory Contracts

On **February 11, 2004**, the Commission proposed amendments to its rules and forms that would improve the disclosure that mutual funds and other registered management investment companies provide to their shareholders regarding the reasons for the fund board's approval of an investment advisory contract. The proposals are intended to encourage fund boards to consider investment advisory contracts more carefully and to encourage investors to consider more carefully the costs and value of the services rendered by the fund's investment adviser. The proposals would require fund shareholder reports to discuss, in reasonable detail, the material factors and the conclusions with respect to these factors that formed the basis for the board of directors' approval of any investment advisory contract. Comment period ended on April 26, 2004. **Final Rule adopted by the Commission on June 23, 2004.**

- *Press Release*: http://www.sec.gov/news/press/2004-16.htm
- *Proposed Rule*: http://www.sec.gov/rules/proposed/33-8364.htm
- *Final Rule*: http://www.sec.gov/rules/final/33-8433.htm

Prohibition on the Use of Brokerage Commissions to Finance Distribution

On **February 11, 2004**, the Commission proposed an amendment to rule 12b-1 under the Investment Company Act of 1940 that would prohibit open-end investment companies (mutual funds) from directing commissions from their portfolio brokerage transactions to broker-dealers to compensate them for distributing fund shares. The Commission also is requesting comment on the need for additional changes to rule 12b-1 to address other issues that have arisen under the rule. Comment period ended on May 10, 2004. **Final Rule adopted by the Commission on August 18, 2004.**

- *Press Release*: http://www.sec.gov/news/press/2004-16.htm
- *Proposed Rule*: http://www.sec.gov/rules/proposed/ic-26356.htm
- *Final Rule*: http://www.sec.gov/rules/final/ic-26591.htm

Redemption Fees for Mutual Fund Securities

On **February 25, 2004**, the Commission voted to propose new Rule 22c-2 under the Investment Company Act of 1940. This rule would require all mutual funds to impose a 2 percent fee on the redemption proceeds of shares redeemed within 5 days of their purchase. The rule is designed to require short-term shareholders to reimburse the fund for the direct and indirect costs that the fund pays to redeem these investors' shares. In the past, these costs generally have been borne by the fund and its long-term shareholders. The rule would supplement other measures the Commission has recently taken to address short-term trading, including abusive market timing activity. Comment period ended on May 10, 2004. On **March 3, 2005**, the Commission voted to adopt new Rule 22c-2 under the Investment Company Act of 1940. The rule will require the boards of mutual funds that redeem shares within 7 days to adopt a redemption fee of no more

than 2 percent of the amount of the shares redeemed or determine that a redemption fee is not necessary or appropriate for the fund. **Final Rule adopted by the Commission on March 3, 2005.**

- *Press Release*: http://www.sec.gov/news/press/2004-23.htm
- *Proposed Rule*: http://www.sec.gov/rules/proposed/ic-26375a.htm

Disclosure Regarding Portfolio Managers of Registered Management Investment Companies

On **March 11, 2004**, the Commission voted to propose amendments to its forms that are designed to improve the disclosure that mutual funds and other registered management investment companies provide about their portfolio managers. These proposals are intended to provide greater transparency regarding portfolio managers, their incentives in managing a fund, and the potential conflicts of interest that may arise when they also manage other investment vehicles. Comment period ended on May 21, 2004. **Final Rule adopted by the Commission on August 18, 2004.**

- *Press Release*: http://www.sec.gov/news/press/2004-31.htm
- *Proposed Rule*: http://www.sec.gov/rules/proposed/33-8396.htm
- *Final Rule*: http://www.sec.gov/rules/final/33-8458.htm

SEC Civil Actions and Administrative Proceedings Regarding Market Timing and Late Trading in Mutual Funds

Civil Action / Administrative Proceeding	Date Filed	Judgment or Decision	Release No.
In the Matter of Theodore Charles Sihpol III	9/16/2003	Pending	33-8288
In the Matter of Steven B. Markovitz	10/2/2003	10/2/2003	33-8298
In the Matter of James Patrick Connelly Jr.	10/16/2003	10/16/2003	33-8304
SEC v. Justin M. Scott and Omid Kamshad (D. Mass)	10/28/2003	Pending	LR-18428
In the Matter of Putnam Investment Management, LLC	10/28/2003	11/13/2003 4/8/2004	IA-2192, IA-2226
SEC v. Martin J. Druffner, et al. (D. Mass.)	11/4/2003	Pending	LR-18784
SEC v. Invesco Funds Group, Inc. and Raymond R. Cunningham (D. Colo.); settled administratively:	12/2/2003		LR-18482
In the Matter of Invesco Funds Group, Inc., AIM Advisors, Inc., and AIM Distributors, Inc.		10/8/2004	34-50506
In the Matter of Raymond R. Cunningham		10/8/2004	34-50507
SEC v. Mutuals.com, Inc., et al. (N.D. Tex.)	12/4/2003	Pending	LR-18489
In the Matter of Alliance Capital Management, L.P.	12/18/2003	12/18/2003	IA-2205A
SEC v. Daniel Calugar and Security Brokerage, Inc. (D. Nev.)	12/22/2003	Pending	LR-18524
SEC v. Gary L. Pilgrim, Harold J. Baxter, and Pilgrim Baxter & Associates, Ltd. (E.D. Pa.); settled administratively:	11/20/2003		LR-18474
In the Matter of Pilgrim Baxter & Associates, Ltd.		6/21/2004	IA-2251
In the Matter of Gary L. Pilgrim		11/17/2004	33-8505
In the Matter of Harold J. Baxter		11/17/2004	33-8506
SEC v. Security Trust Company, N.A., Grant D. Seeger, William A. Kenyon, and Nicole McCermott (D. Ariz.)	11/25/2003	Pending	LR-18479
(Civil Judgment as to Nicole McDermott)		3/3/2004	LR-18606
(Civil Judgment as to Security Trust Co., N.A.)		3/31/2005	LR-18653
In the Matter of Paul A. Flynn	2/3/2004	Pending	33-8360
In the Matter of Massachusetts Financial Services Co., John W. Ballen, and Kevin R. Parke	2/5/2004	2/5/2004	IA-2213
SEC v. Columbia Management Advisors, Inc. and Columbia Funds Distributor, Inc. (D. Mass.); settled administratively:	2/24/2004		LR-18590
In the Matter of Columbia Management Advisors, Inc. and Columbia Funds Distributor, Inc.		2/9/2005	33-8534

Civil Action / Administrative Proceeding	Date Filed	Judgment or Decision	Release No.
SEC v. PIMCO Advisors Fund Management LLC, et al. (S.D.N.Y.); settled administratively as to the entities, action continues against Stephen J. Treadway and Kenneth W. Corba:	5/6/2004	Pending	LR-18697
In the Matter of PA Fund Management LLC, PEA Capital LLC, and PA Distributors LLC		9/13/2004	34-50354
In the Matter of Strong Capital Management, Inc., et al.	5/20/2004	5/20/2004	34-49741; 34-51694
SEC v. Geek Securities, Inc., Geek Advisors, Inc., Kautilya "Tony" Sharma, and Neal R. Wadhwa (S.D. Fla.)	6/4/2004	Pending	LR-18738
(Civil Judgment as to Neal R. Wadhwa)		10/14/2004	LR-18938
In the Matter of Neal R. Wadhwa		11/5/2004	34-50644
In the Matter of Banc One Investment Advisors Corporation and Mark A. Beeson	6/29/2004	6/29/2004	IA-2254
In the Matter of Franklin Advisers, Inc.	8/2/2004	8/2/2004	IA-2271
In the Matter of CIHC, Inc., Conseco Services, LLC, and Conseco Equity Sales, Inc.	8/9/2004	8/9/2004	33-8455
In the Matter of Inviva, Inc. and Jefferson National Life Insurance Co.	8/9/2004	8/9/2004	33-8456
In the Matter of Janus Capital Management, LLC	8/18/2004	8/18/2004	IA-2277
SEC v. JB Oxford Holdings, Inc. et al. (C.D. Cal.)	8/25/2004	Pending	LR-18850
In the Matter of Michael D. Legoski	8/30/2004	8/30/2004	34-50289
In the Matter of Thomas A. Kolbe	8/30/2004	8/30/2004	IA-2288
In the Matter of Timothy J. Miller	8/30/2004	8/30/2004	IA-2289
In the Matter of Charles Schwab & Co., Inc.	9/14/2004	9/14/2004	34-50360
In the Matter of RS Investment Management Inc, RS Investment Management, L.P., Randall Hecht, and Steven M. Cohen	10/6/2004	10/6/2004	IA-2310
In the Matter of Fremont Advisors, Inc.	11/4/2004	11/4/2004	IA-2317
In the Matter of Nancy C. Tengler	11/4/2004	11/4/2004	IA-2318
In the Matter of Larry Adams	11/4/2004	5/19/2005	IA-2388
In the Matter of Southwest Securities, Inc., Daniel R. Leland, Kerry M. Rigdon, and Kevin J. Marsh	1/10/2005	1/10/2005	34-51002
SEC v. Scott B. Gann and George B. Fasciano (N.D. Tex.)	1/10/2005	Pending	LR-19027
In the Matter of Lawrence S. Powell and Delano N. Sta.Ana	1/11/2005	1/11/2005	34-51017
In the Matter of Banc of America Capital Management, LLC, et al.	2/9/2005	2/9/2005	33-8538
In the Matter of Erik Gustafson	2/9/2005	2/9/2005	IA-2354
In the Matter of Joseph Palombo	2/9/2005	2/9/2005	IA-2352
In the Matter of Peter Martin	2/9/2005	2/9/2005	33-8537
In the Matter of Breen Murray & Co.	2/17/2005	2/17/2005	34-51219
In the Matter of John D. Carifa	4/28/2005	4/28/2005	IA-2379
In the Matter of Gerald T. Malone	4/28/2005	4/28/2005	IA-2378
In the Matter of Michael J. Laughlin	4/28/2005	4/28/2005	34-51624