MUTUAL FUND DIRECTORS FORUM

January 4, 2021

Ms. Vanessa Countryman
Secretary
United States Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: Tailored Shareholder Reports (File No. S7-09-20)

Dear Ms. Countryman:

The Mutual Fund Directors Forum ("the Forum")[1] welcomes the opportunity to comment on the Commission's recent rule proposals regarding Tailored Shareholder Reports.[2]

The Forum is an independent, non-profit organization for investment company independent directors and is dedicated to improving mutual fund governance by promoting the development of concerned and well-informed independent directors. Through education and other services, the Forum provides its members with opportunities to share ideas, experiences and information concerning critical issues facing investment company independent directors and also serves as an independent vehicle through which Forum members can express their views on matters of concern.

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I Introduction

As the representatives of fund shareholders, independent fund directors have a key interest not just in how funds are managed and operated, but also in how information about the funds they oversee is disclosed and presented to fund shareholders. We have long been concerned that

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1 The Forum's current membership includes over 887 independent directors, representing 122 mutual fund groups. Each member group selects a representative to serve on the Forum's Steering Committee. This comment letter has been reviewed by the Steering Committee and approved by the Forum's Board of Directors, although it does not necessarily represent the views of all members in every respect.

2 *See* 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, Release Nos. 33-10814, 34-89478 & IC-33963 (File No. S7-09-20), 85 Fed. Reg. 70716 (Nov. 5, 2020) (hereinafter "Proposing Release").

although Commission regulations effectively require all relevant information to be disclosed to investors in one of many required disclosure documents, the information of most fundamental importance and relevance to investors is often not disclosed in a clear and concise manner in a single document or presentation that is easy to access, easy to use and easy to understand.

The Commission's proposal on tailored fund disclosure is an important step forward in rectifying these problems. As we describe in greater detail below, we believe that the Commission has correctly identified most of the most important information about fund performance and operations that should be disclosed to fund investors on a regular basis in a single concise document. We therefore strongly support the proposal.

We believe, however, that the proposal has one significant omission – namely, given the importance of fund governance, and particularly the role that independent directors play in overseeing a fund, we believe that the fund annual report should include at least basic material about the fund's board. That basic information could then easily be linked to more detailed information about fund governance for those shareholders who wish to better understand the manner in which the fund's board is protecting their interests in how the fund is managed. We also are concerned that the Commission has not more clearly prioritized the ability of funds to deliver disclosure documents by electronic means. Not allowing default electronic delivery risks imposing unnecessary costs on funds and also may disincentivize further innovation by funds and fund complexes that the Commission states elsewhere in the proposal that it wishes to encourage.

II. Support for the Commission's Proposal

We applaud the Commission's efforts to rethink the approach to ongoing disclosure for fund investors. As a general matter, we agree with the Commission that much of the disclosure provided to fund investors on an ongoing basis contains material that is needlessly repetitive, needlessly technical or otherwise less relevant to an investor's ability to understand how a fund in which he or she has invested is being managed. As the Commission outlines in its proposal, the length and density of fund disclosure is likely a deterrent to fund shareholders actually reading and engaging with the materials. Moreover, the most relevant information is not currently available in one single, concise document. Designing and mandating disclosure that is consolidated in a single document and is clear, concise and visually engaging thus plays an important role in helping fund investors better understand the funds in which they have invested.

The Commission's rule proposal would mandate that certain key periodic disclosures of information for existing fund investors be provided in a single, clear document – the fund's Annual Report (supplemented by a briefer Semiannual Report). This proposal has the potential to significantly improve existing investors' understanding of the funds in which they have invested. We see four key principles driving the Commission's approach to fund disclosure, each of which we support:

First, a consolidation of disclosure for existing fund investors in the Annual and Semiannual Report – Existing fund shareholders are regularly faced with decisions regarding whether to retain, increase or decrease their holdings in a fund. Making informed decisions on these matters requires appropriate disclosure about the performance and operations of the funds in which they have invested on a regular basis. From the perspective of an investor seeking to follow his or her investments, it makes sense for this information to be available in a single document.

We thus agree with the Commission's proposal to stop providing existing investors with various disclosure documents during the course of the year – disclosure that often includes a full updated prospectus -- and instead focus on providing them with the information most relevant to their decision whether to hold, sell or make additional investments in a fund in a single document. Under the Commission's proposal, this disclosure document would be the fund's Annual Report (as supplemented, midway through the fund's fiscal year, by a Semiannual Report). By emphasizing that the Annual Report should be standardized, concise and visually engaging, the Commission's proposal is likely to lead to disclosures that investors are more likely to read and understand and that will be effective in helping them monitor and make investment decisions regarding the fund. By consolidating fund disclosure in this manner, the Commission will significantly improve the ability of investors to access, use and comprehend the information that is most relevant to their fund investments.

Second, a focus on fund performance, fund expenses and key risks in the Annual Report -- We agree that the most important and relevant information for existing investors is that which focuses on the performance of the fund, the ongoing expenses that fund investors pay and the primary risks that they face in choosing to invest or remain invested in a fund. In order to assess an existing fund investment, fund investors clearly need to know how their investment is performing, what is driving that performance, what fees they are paying to remain invested in the fund and how the primary risks of investing in the fund have changed. The Commission's proposal focuses Annual Report disclosure on precisely these issues – the main elements of the proposal mandate textual and graphic disclosure of fund performance and expenses and a brief Management Discussion of Fund Performance as well as any necessary updates to the fund's fundamental investment policies and the primary risks of investing in the fund. We therefore concur with the Commission that, as a general matter, an Annual Report formatted in this manner will result in highly useful and useable information for existing fund investors.

Third, a focus on layered disclosure – While the Annual Report described in the Commission's proposal will include the information most relevant to a fund investor's ongoing monitoring and decision-making regarding the fund, it does not include all the information that the Commission requires a fund to disclose. Investors seeking a deeper understanding of the funds in which they have invested or financial intermediaries who require this information in order to better understand and make recommendations regarding a fund for their clients need to have easy access to this information.

We therefore also strongly support the Commission's continued efforts to provide that disclosure via a layered approach. As described in the proposal, this approach to disclosure ensures not only that additional material remains available, but that core disclosure documents like the Annual Report clearly indicate the availability of the information and provide instructions to investors and other interested parties on how to obtain the information, whether in paper or electronic form. By structuring disclosure in this manner, the Commission effectively increases the usability and accessibility of the material without compromising the concise presentation of more fundamental information to all fund investors. This approach also recognizes investor choice, in that it enables investors easily to locate fundamental information related to operations and performance without mandating that they wade through volumes of additional disclosure. We agree with the Commission that this approach is likely to increase fund investors' use of fund disclosure and improve their understanding of the funds in which they are invested.

Fourth, a continued focus on innovation to improve the quality and accessibility of fund disclosure -- We also recognize, as does the Commission, that modern technology – including, most notably, the Internet – makes it easier to provide information in many different ways, including through layered or hyperlinked disclosure and through the use of interactive graphs, calculators and other materials that will permit individual investors to understand the impact of fund performance and fees on their specific investments. Moreover, increased use of various types of electronic disclosure offers opportunities for funds to continue to improve how they deliver and present information – as the Commission states, "presenting fund information – including annual reports – electronically has the potential advantage of permitting greater innovation and information-tailoring than the use of a static paper document."[3] We thus support the Commission's efforts to encourage the use of "interactive, user-friendly design features,"[4] including adding flexibility to the instructions for disclosure documents that recognize that electronic "documents" cannot always be described in the same manner as paper documents. We encourage the Commission to continue to take steps that both provide flexibility to continue to experiment with different means of presenting required information and means of allowing investors to interact with and manipulate that information while at the same time preserving requirements to present specific fund-related information in both textual and graphical forms.

III. Disclosure on the Role of the Fund Board

While we strongly support the Commission's efforts to condense and standardize the information that is pushed out to fund shareholders annually in the Fund's Annual Report, we believe that in finalizing the rule, the Commission should require basic information on fund governance and the role of the board to be included The absence of this information potentially blinds fund shareholders to the key role that their boards play in protecting their interests in the management of funds in which they have invested.

Independent boards have played a key role in protecting fund shareholders since the adoption of the Investment Company Act in 1940. Since the adoption of the fund governance amendments in 2004, the Commission has increasingly emphasized the fundamental role of independent boards. The Commission has mandated that directors communicate directly with their shareholders, through the requirement that the independent directors explain annually why they renewed the advisory contract. The Commission has also provided independent boards with important resources such as independent counsel and a chief compliance officer who reports to and is responsible to the board. Similarly, through the adoption of rule 38a-1, the Commission has

3 Proposing Release, *supra* note 2, 85 Fed Reg at 70758.

4 *Id.*

recognized that boards play a key role in assessing their funds' compliance with relevant securities laws.

That emphasis continues today, as the Commission has assigned fund boards and the independent directors who serve on them key oversight roles in recent rulemakings covering liquidity risk management, derivatives risk management and the valuation of fund securities. This emphasis is not coincidental – rather it arises from the Commission's recognition of the manner in which independent directors must act in the best interests of their shareholders, oversee the fund on their behalf and protect them from the conflicts of interest inherent in fund management.

We therefore encourage the Commission to require that the annual report provide basic information on the identity of fund directors and the structure of the board that oversees the fund in which they are invested. While this information may not change significantly on a year-to-year basis, we believe it is important for fund investors to have a basic understanding of the role of the board. This is not a radical suggestion – we note, for example, that the yearly proxy that is provided to investors in public companies contains significant information about the identity and qualifications of the company's directors and of the structure of the board and governance system of the company.

Recognizing the importance of layered disclosure, the parallel disclosure in a fund annual report likely does not need to be as detailed. Instead, using layering, fund investors can be directed to more specific information on fund governance, including information on the compensation of fund directors, their holdings in the fund and complex they oversee, the diversity of the board, the board's annual statement on why it renewed the advisory contract and other similar information.

IV. Electronic Disclosure

We are also concerned that the Commission has missed an opportunity to improve the efficiency of fund disclosure by not more clearly prioritizing the ability of funds to deliver disclosure documents by electronic means. We recognize that some shareholders prefer to receive disclosure documents in paper form, and hence agree that those shareholders should always be made aware of the availability and the means to obtain paper documents. However, by limiting the scope of Rule 30e-3 to exclude open-end funds and by not taking this opportunity to permit funds to deliver disclosure documents electronically absent a shareholder's affirmatively expressed desire to receive electronic disclosure, the Commission risks imposing unnecessary costs on funds and ignoring the fact that the vast majority of fund shareholders not only prefer to receive disclosure electronically, but also find electronic disclosure more useable and accessible. The Commission's approach also risks disincentivizing further innovation by funds and fund complexes as they attempt to improve the effectiveness of their individual disclosure efforts – the very types of innovation that the Commission states elsewhere in the proposal that it wishes to encourage. We therefore urge the Commission to reconsider its approach in this area as it moves toward adopting these otherwise important reforms to fund disclosure.

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V. Conclusion

In conclusion, we welcome the Commission's proposal on tailored fund disclosure. We believe that this proposal is an important step in making the periodic disclosure that funds provide to their investors more accessible, more usable and more comprehensible. As such, it represents a step in improving the ability of fund investors to engage with the disclosure and better understand how their funds are operated and managed. However, we do encourage the Commission both to improve periodic disclosure around fund governance and the role of independent boards and to continue to facilitate the use of electronic delivery.

Again, we commend the Commission for undertaking to address this difficult but important subject. We would welcome the opportunity to further discuss our comments with you. Please feel free to contact Carolyn McPhillips, the Forum's President, at 202-507-4493 or David Smith, our General Counsel, at 202-507-4491 at any time.

Sincerely,

David B. Smith, Jr.
General Counsel