



Fund Democracy
The Mutual Fund Shareholder's Advocate



April 24, 2007

The Honorable Christopher Cox
Chairman
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-9303

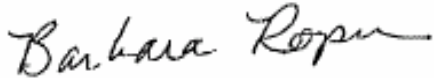
Dear Chairman Cox:

Several weeks have passed since the U.S. Court of Appeals for the District of Columbia Circuit overturned the Commission's fee-based brokerage account rule. While this decision may cause temporary disruption, we believe it also presents an opportunity for the Commission to develop a more rational, pro-investor policy for regulation of investment services providers. We are writing to urge the Commission: 1) provide guidance to brokers on their obligations and information to investors about the implications of the court decision while a more permanent policy is being developed; and 2) to reaffirm pro-investor aspects of the rule that were not overturned by the court ruling.

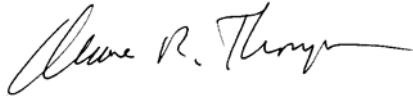
Because the entire rule is vacated by the decision, the governing law would – absent appeal – revert to the pre-1999 landscape, whereby brokers providing advisory services are exempt from the Advisers Act if they do not charge special compensation (e.g., fees) and the advisory services they provide are solely incidental to their brokerage services. The SEC retains its authority to interpret this existing exemption, including the meaning of the phrase “solely incidental.” We urge the Commission to continue the position adopted in the vacated rule that discretionary management and financial planning services are not solely incidental to brokerage services. We further urge the Commission to interpret the existing exemption such that non-discretionary advice bearing the core characteristics of investment advisory services is not deemed to be solely incidental to brokerage services. This includes relationships of trust and confidence (from the client's perspective, not the broker's), ongoing supervisory or managerial services, portfolio management, asset allocation services, and advice regarding selection of investment advisers.

A long-term response to the Court decision will require complex decisions about a variety of issues, including how best to draw a functional distinction between brokers and investment advisers, determining the appropriate standards to apply to the range of activities engaged in by investment services providers, how to educate investors to make informed choices among the various types of providers, and what disclosures are appropriate to inform investors of the differing roles of these providers and of the applicable legal protections. We look forward to working with you to resolve these issues. In the meantime, we believe the steps outlined above would help to ease the transition and set the Commission on the path toward developing a policy that will both make sense to investors and provide them with appropriate protections.


Respectfully submitted,



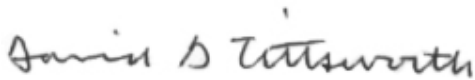
Barbara Roper
Director of Investor Protection
Consumer Federation of America (CFA)



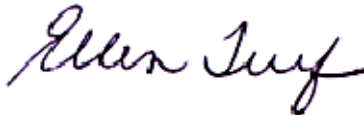
Duane Thompson
Managing Director of Washington Office
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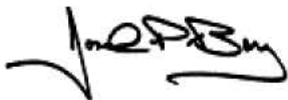
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