



All that's hot in the mutual fund industry

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## SEC Poised to Move Forward With Disclosure Rule

Article published on Feb 8, 2006

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The SEC appears ready to move forward with its proposed [point-of-sales disclosure rule](#)<sup>1</sup>. At the same time, various firms and industry organizations are waiting with bated breath to see if fund firms or broker-dealers will end up paying for the costs of complying with the rule.

During the past few months, SEC commissioners and executives have said they plan to move forward with the rule.

The rule would require fund investors receive a disclosure document highlighting fees, brokerage commissions and any conflicts of interests faced by brokers when making fund recommendations. The disclosure, as currently proposed, would involve having fund firms and brokers complete a 16-page form that includes questions about fees, broker compensation, suitability and conflicts of interests.

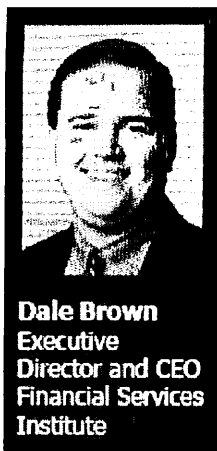
Just last week, SEC commissioner Cynthia Glassman, speaking before the 2006 Financial Services Institute, said she is "very enthusiastic" about the rule. In her presentation, Glassman said the SEC has been using focus groups to assess the nature of information that would be the most helpful for investors and should therefore be included in the disclosure documents.

At the same time, she acknowledged that balancing the costs of providing the information to investors with the need to provide investors with sufficient information is proving to be a challenge.

Her comments followed closely on the heels of a speech by Chairman Christopher Cox in December in which he emphasized that the SEC will continue to find new ways to improve disclosures to investors on fees and other issues.

The interest in the topic by Cox and Glassman has many industry associations and SEC watchers forecasting that the regulator is ready to move onward with drafting a new version of the proposed rule.

"I wouldn't be surprised if they issue another proposal during the first half of this year and then receive comments on it," says Dale Brown, executive director and CEO of the Financial Services Institute.



One big issue, of course, is who will pay for providing investors with the new disclosure documents. The SEC has estimated that it will cost \$1.3 billion to implement the rule and then \$3 billion annually to provide the disclosures.

Brown maintains that fund firms, not broker-dealers, should be called upon to provide the disclosure documents for investors. Otherwise, brokers would have to gather the data from a large number of fund shops.

"The costs would be outrageous," he says. "We're talking about data that is in hundreds, if not thousands, of fund firms, and yet the regulatory onus is on intermediaries."

Either way, the SEC probably has a long way to go in creating the rule, adds Niels Holch, executive director of the Coalition of Mutual Fund Investors. The challenge is creating a disclosure document that is substantial but not overly complex.

"I'm not sure how they can create a rule that provides investor education that isn't too complex or something that can become too routine when used with investors," he says. "Where do you draw the line?"

Fund firms, meanwhile, say their sales of funds on a no-load basis should be exempt from the rule. That's because the firms don't provide brokers with compensation for distributing their products. Vanguard and T. Rowe Price, for example, have both conveyed those thoughts in comment letters to the SEC.

**NewRiver**, which provides electronic delivery of compliance documents, is also following the matter. In the process, it's hoping to position its FundPoint Desktop product as a lower-cost approach to complying with disclosure requirements, says Roland Beaulieu, president.

NewRiver inserts data tags into mutual fund regulatory documents. The data tags serve to identify various numbers and sections found within the documents. That allows NewRiver to extract the data for use in compliance products.

In the case of FundPoint, brokers can compare fees associated with different funds. Those fees can include sales loads of different share classes and rules for achieving breakpoints, or discounts in up-front sales charges. It also allows brokers to create point-of-sales disclosure documents.

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1. <http://www.sec.gov/rules/proposed/33-8544.htm>