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Fund Action

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HEADLINE: SEC Told To Get Tough With Intermediaries

BODY:

The Coalition of Mutual Fund Investors thinks the Securities and Exchange Commission should force intermediaries to cooperate to make sure that investors receive restitution payments from the market timing scandals. The Coalition urged the SEC to borrow compulsion powers designed to enforce redemption fee rule 22c-2 and have funds tell intermediaries that if they do not cooperate on restitution payments for scandals the funds will not work with them.

On Sept. 6, Niels Holch, executive director of the Coalition, wrote to the SEC that on his reading of 22c-2 the rule's information-sharing agreements signed between funds and intermediaries could be adapted to compel the cooperation of intermediaries for compensation.

Intermediaries functioning between retirement plans and mutual funds are already under compulsion to cooperate, thanks to a Field Assistance Bulletin put out by the Labor Department last spring. It says that retirement plan intermediaries that jeopardize the rights of 401(k) plans to collect restitution payments could be held liable.

But there remains a universe of brokers through whom investors were buying shares in mutual funds in the years before the scandals were discovered and these investors are now thought to be entitled to compensation because the funds allowed market timing to go on.

"If a financial intermediary is unwilling to provide the information [about shareholders entitled to restitution] or is unable to do so in a manner in which the cost is less than the distribution amount, then the individual investor...may not receive a distribution," said Holch's letter to the Commission. He pointed out that under 22c-2 the fund is prohibited from redeeming shares presented by the intermediary until compliance has been achieved.

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