

**SEC REVISES MUTUAL FUND DISCLOSURE REQUIREMENTS
AND ADOPTS "PROFILE" RULE**

SIMPSON THACHER & BARTLETT LLP

MARCH 20, 1998

In two companion releases issued on March 13, 1998, the Securities and Exchange Commission (the "Commission") amended Form N-1A to revise the disclosure requirements for mutual fund prospectuses and statements of additional information ("SAIs"), and adopted a rule to permit mutual funds to offer shares with a streamlined "profile" document rather than a full prospectus. The releases also apply the Commission's recently adopted "plain English" requirements (described in our memorandum to clients dated February 13, 1998) to mutual fund prospectuses and profiles. The N-1A amendments and the new profile rule become effective on June 1, 1998. Mutual funds will generally be required to comply with the new N-1A amendments for registration statement filings made on or after December 1, 1998.

**REVISIONS TO FORM N-1A AND
MUTUAL FUND DISCLOSURE
REQUIREMENTS**

The Commission adopted substantial amendments to Form N-1A, the registration form for mutual funds. The changes are intended primarily to streamline and simplify mutual fund prospectuses, and focus the prospectus on information the Commission believes to be most important to investors. The changes also move certain technical disclosure from the prospectus to the SAI. The following highlights the most significant prospectus changes:

Front And Back Cover Pages:

- The front cover is simplified to require only the fund's name, the date of the prospectus and a simplified disclaimer that the Commission has not approved the securities or the prospectus. The cover may also include additional information such as the fund's investment objectives and a brief description of its operations. Certain legends are required on the outside back cover page.

RISK/RETURN SUMMARY:

- The amendments require a new "risk/return summary" to be included at the beginning of every prospectus, with the items specified below to be discussed in the order indicated.

Investment Objectives and Principal Strategies.

- The fund must disclose its investment objectives and summarize how it intends to achieve the objectives. The fund must identify its principal investment strategies, including any industry concentration policies.

Risks and Related Disclosure.

- The fund must disclose succinctly the principal risks of investing in the fund, with a focus on the risks to which the fund's portfolio as a whole is subject and the circumstances reasonably likely to affect adversely the fund's value and performance. Additional standardized disclosures are required if the fund is advised by or sold through a bank, if the fund is a money market fund or if the fund is non-diversified. Note that the fund is not permitted to include in the summary a description of any potential rewards of investing in the fund. The fund is permitted, but not required, to describe the types of investors for whom the fund may be appropriate or inappropriate.
- The summary must provide a risk/return bar chart showing the fund's calendar year returns for each of the last ten years (or for the life of the fund, if shorter). The fund must also disclose its best and worst returns for any quarter during the period reflected in the bar chart. In addition to the bar chart, the summary must include a table comparing the fund's average annual returns for the last one, five, and ten calendar years to those of a broad-based securities market index. Sales charges will not be reflected in the bar chart but will be reflected in the table. Multiple class funds will show only one class of shares in the bar chart, subject to certain requirements for selecting the class, but will show the performance of all classes offered through that prospectus in the table. For money market funds, the table must include information regarding its seven-day yield.

Fees and Expenses.

- The fund must include in the summary a fee table similar to the one required under the current Form N-1A explaining the fund's sales loads, fees and expenses, but with certain modifications to the existing requirements. Most significantly, the fee table must show fees and expenses prior to giving effect to any waivers or expense reimbursements. Waivers and reimbursements may, however, be disclosed in a footnote to the table.

INVESTMENT STRATEGIES AND RISK DISCLOSURE:

- Funds are directed to disclose their principal investment strategies and the principal risks of investing in the fund. The focus should be on the fund's objectives and the principal means used to achieve those objectives, including disclosure regarding how decisions are made to buy and sell securities. The release adopting the N-1A amendments emphasizes that the prospectus should no longer include lengthy descriptions of each type of security in which the fund may invest and the risks of investing in those particular types of securities, but rather should focus on broader investment strategies and the principal risks of investing in the fund as a whole.

PURCHASE AND REDEMPTION INFORMATION:

- The release adopting the N-1A amendments notes that many funds have disclosure regarding purchases and redemptions in excess of that which is required by Form N-1A. In order to streamline prospectuses, funds are given three options with respect to the presentation of purchase and redemption information. A fund may either:
 - (i) comply with the minimum prospectus disclosure requirements of Form N-1A for purchase and redemption information and create a separate additional document with more detailed purchase and redemption information (which separate document would be considered supplemental sales literature);
 - (ii) comply with the minimum prospectus disclosure requirements and include additional purchase and redemption information in the SAI (which additional information could be set out as a separate document and delivered to investors separately from the remainder of the SAI on request); or
 - (iii) remove all purchase and redemption information from the prospectus and place the information in a separate document (called an "owner's manual") which would be incorporated by reference into the prospectus. The owner's manual would be delivered to investors with the prospectus.

INFORMATION REGARDING DISTRIBUTION ARRANGEMENTS:

- Funds are required to present all prospectus disclosure regarding distribution fees and sales loads in a single location in the prospectus. In addition, certain technical disclosure regarding Rule 12b-1 plans and sales loads (such as dealer

reallowance information and categories of persons exempt from sales loads) is now moved to the SAI or eliminated.

PLAIN ENGLISH REQUIREMENTS:

- The fund prospectus is subject to a general requirement that it be clear, concise and understandable. In addition, the front and back cover and risk/return summary must be drafted in accordance with the following plain English principles: short sentences; definitive, concrete, everyday words; active voice; tabular presentation or bullet points for complex material whenever possible; no legal jargon or highly technical business terms; and no multiple negatives.

CERTAIN ADDITIONAL ITEMS:

- Prospectus disclosure regarding multiple class funds and master-feeder funds is streamlined to focus on the class(es) or fund(s) offered in that prospectus.
- Disclosure relating to certain technical, legal and operational matters will move from the prospectus to the SAI, including disclosure regarding sub-advisory fees, legal status, tax qualification, shareholder voting rights and calculation of performance.
- Financial highlights tables need only present information for the prior five years (rather than ten years).
- The required undertaking for new funds to file updated financial statements with the Commission four to six months after the effective date of their registration statement is eliminated.
- The amendments make certain technical and conforming changes to current SAI disclosure, and the Commission noted that it intends to simplify and update SAI disclosure requirements in the future.

The Staff of the Commission has informally advised that mutual funds amending their registration statements to comply with the new N-1A requirements will need to do so in an amendment under Rule 485(a) of the Securities Act of 1933. These amendments must be filed at least 60 days prior to their effective date.

THE MUTUAL FUND "PROFILE" RULE

The Commission has also adopted Rule 498 under the Securities Act of 1933, to permit mutual funds to offer shares with a stand-alone "profile" document which presents specified information about a fund in a concise, standardized format. The new rule will replace a pilot program in which the Staff of the Commission has allowed mutual funds to use profiles

together with their prospectuses under a no-action position. Under Rule 498, the profile may include or be distributed with a purchase application as long as the application explains that an investor has the option of investing in the particular fund after reviewing the profile or after requesting and reviewing the full prospectus (and other information) before making an investment decision. If the investor invests in the fund based on the profile, the prospectus must be sent with the purchase confirmation. Funds will be required to file a profile with the Commission at least 30 days prior to its first use, and a new filing with the Commission is required within five business days of first use whenever a profile is substantively changed. A profile may describe more than one fund.

Rule 498 requires nine specified items to be included in the profile in a specified order, and requires certain information to be included on the cover page. The rule permits funds to include only the information specified by the rule. The format of the profile, in the sequence in which it must be presented, is as follows:

COVER PAGE:

- The cover page should identify the document as a “Profile,” include the fund’s name and approximate date of first use and, at the fund’s option, the investment objectives and/or the type of fund offered. The cover page also must include a legend which explains the purpose of the profile, notes that the prospectus contains additional information regarding the fund and provides a toll free number for the investor to obtain a prospectus. The rule requires that the prospectus be sent within three business days of any request.

RISK/RETURN SUMMARY:

Fund Objectives and Goals.

- The profile must list the fund’s investment objectives or goals as required in the new Form N-1A risk/return summary.

Principal Investment Strategies.

- The profile must identify the fund’s principal investment strategies, including the types of securities in which it invests and any industry concentration policy, as required in the new Form N-1A risk/return summary. In addition, the profile must include a legend on how to obtain the fund’s annual and semi-annual reports.

Principal Risks of Investing in the Fund.

- The profile must include the narrative risk disclosure, bar chart and table required in the new Form N-1A risk/return summary. However, the

average return information presented in the performance table of the profile must be current as of the most recent calendar quarter (as opposed to the most recent calendar year for the prospectus) and must be updated quarterly. Updates may be made by attaching a label or sticker.

Fees and Expenses.

- The profile must include the same fee table required in the new Form N-1A risk/return summary.

OTHER DISCLOSURE REQUIREMENTS:

Investment Adviser and Portfolio Manager.

- The profile must identify the investment adviser and portfolio manager, and must summarize the portfolio manager's experience. Special provisions apply to funds managed by committee or multiple portfolio managers. Sub-advisers must be identified, subject to certain exceptions.

Purchases of Fund Shares.

- The profile must include specified purchase information, including minimum investment requirements, sales loads and any breakpoints in or waivers of such sales loads.

Sales of Fund Shares.

- The profile must include specified information about redemption procedures.

Fund Distributions and Tax Information.

- The profile must state how frequently the fund intends to make distributions, what reinvestment options are available, and that, except for a tax-exempt fund, the distributions may be taxed at various rates depending on the nature of the distributions. A tax-exempt fund is required to state that it intends to distribute tax-exempt income and to disclose, as applicable, that a portion of its distribution may be taxable.

Other Services Provided by the Fund.

- The profile must summarize the services available to typical investors, such as exchange privileges and automated information services.

The entire profile is subject to the specific “plain English” requirements described above for the cover pages and risk/return summary of the prospectus.

In proposing Rule 498, the Commission indicated that the profile might not be appropriate for certain funds if the nine specified disclosure items did not adequately address material aspects of a fund. This could have provided a potentially broad basis for litigants to allege that the use of profiles for particular funds had resulted in the omission of material information. In adopting Rule 498, the Commission eliminated the suggestion that certain funds may be ineligible to use profiles and noted that the nine disclosure items in a profile should be sufficient to provide investors with a short document on the basis of which they can make decisions about investing in the fund.

The Commission noted in the adopting release that the federal securities laws will apply to false or misleading statements in a profile just as they do for a prospectus. However, the Commission also indicated that in its opinion, as long as the profile conformed to the requirements of Rule 498 and did not contain a material misstatement or omission, no liability should arise under the federal securities laws simply because the profile omitted information which is required to be disclosed in a full prospectus. It should be noted that a profile may not incorporate by reference any information in the prospectus or in any other documents filed with the Commission.

Although a profile may be delivered without a prospectus, supplemental sales literature must continue to be accompanied by a full prospectus.

* * *

If you have any questions about the topics discussed in this memorandum or would like additional details, please call James J. Burns at (212) 455-7083, Sarah E. Cogan at (212) 455-3575, Robert M. Kaner at (212) 455-3275 or Gary S. Schpero at (212) 455-3665.

SIMPSON THACHER & BARTLETT LLP