

**OppenheimerFunds Distributor, Inc.**  
**2 World Financial Center**  
**225 Liberty Street – 11<sup>th</sup> Floor**  
**New York, NY 10281-1008**

January 23, 2004

Barbara Z. Sweeney  
Office of the Corporate Secretary  
pubcom@nasd.com  
1735 K Street, N.W.  
Washington, D.C. 20006-1500

Re: *Request for Comment Regarding Disclosure of Mutual Fund Expense Ratios in Performance Advertising (NASD Notice to Members 03-77)*

Dear Ms. Sweeney:

OppenheimerFunds Distributor, Inc.<sup>1</sup> submits these comments on NASD's Proposal in NASD Notice to Members 03-77 (December 2003) (the "Proposal"). That Proposal would amend Rules 2210 and 2211 to require any fund communication with the public that includes performance information permitted by Rule 482 under the Securities Act of 1933 ("Rule 482") or Rule 34b-1 under the Investment Company Act of 1940 ("Rule 34b-1") to disclose in a prominent text box, with specific type size requirements: the standardized performance information required by Rule 482 and Rule 34b-1; the fund's maximum sales charge, and the fund's annual expense ratio. For the reasons discussed below, we do not support the Proposal in its current form.

A. The Proposal is Inadvisable. In the admirable interest of enhancing disclosure to investors, a rule has been proposed that would make many fund advertisements (including reports to fund shareholders) so uniform as to diminish their role in helping investors select among funds. The need to enhance the presentation of narrative disclosures regarding fund performance data has been addressed in recently adopted amendments to Rule 482 of the Securities Act (see SEC Release No. 33-8294). If the NASD rule proposal is adopted in its present form, there would be little room left (especially in media ads, where space is at a premium) to distinguish funds on the basis of their risk factors or other distinctive elements. The inadvertent result of the Proposal may be ads that promote funds on the basis of past performance alone, because of the emphasis this information will have. All performance ads are required by SEC Rule 482

<sup>1</sup> OppenheimerFunds Distributor, Inc. (a member of the NASD) is the general distributor or sub-distributor for the Oppenheimer and Centennial mutual funds. As of December 31, 2003, these funds collectively held over \$125 billion in assets, in more than 7 million shareholder accounts.

to show returns net of sales charges and fund expenses, so breaking out these components is as likely to confuse as to assist the average fund investor.

There is also substantial risk of misunderstanding “annual fund expense ratios,” in that investors could reasonably expect that an investment made at the time of the ad will be subject to the annual expense ratio shown in the ad. This is not the case, since annual expense ratios provide historical information, and like fund performance, and subject to change. Fund expense ratios are already required to be disclosed in tabular format, as part of the financial highlights charts included in the prospectuses and financial statements of registered open-end funds.

It is also important to take into consideration that the very expenses at issue in the Proposal could be increased as a result of requiring funds to calculate fund expenses more frequently (and somewhat differently) than they are now required to do. At present, annual operating expenses are calculated as a percentage of its net assets on a semi-annual basis, for inclusion in reports to shareholders. The Proposal would require ads to disclose a fund’s operating expenses as a percentage of its total assets, as of the most recent calendar quarter – another source of confusion among investors, comparing expenses shown in Financial Highlights to those shown in ads. In all likelihood, certain funds will bear higher costs for these calculations to be made quarterly, in a different manner.

B. Alternatives. In the event that some action is necessary to enhance the availability of fund expense ratios, here are some more acceptable alternatives:

1. As noted above, registered open-end funds currently present their expense ratios in the Financial Highlights charts in their prospectuses and financials. Funds could be required to post either or both of such documents on their websites, and are already required<sup>2</sup> to provide a toll-free number whereby copies would be sent free of charge, even if the request is made by a non-shareholder. Advertisements containing fund performance could be required to include a toll-free number (such as the number to call for obtaining a fund prospectus and updated fund performance information, pursuant to the requirements of Rule 482) to obtain fund expense information.

2. We specifically object to the requirement that this information be shown as prominently and as specifically as the rule proposal would require. A rule that includes the Proposal’s type size requirement alone, without the text box requirement,

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<sup>2</sup> This requirement appears in Item 22 of Form N-1A, the form used by open-end investment companies to register their shares under the Securities Act of 1933 and the Investment Company Act of 1940.

would be a more palatable alternative. Even a chart format, combining fund performance numbers with expense ratios, would be preferable as an alternative format.

3. If the rule is adopted, it should be limited to ads showing average annual total returns (rankings or performance comparisons alone should not trigger the disclosure requirement). It should not apply to institutional-use only advertisements (as that term is used in NASD Rule 2211) in view of the fact that the audience is far less likely to overlook any factual information they deem important to their investment decisions. It is certainly not necessary to require funds to disclose their expense ratios in sales material that does not present performance information, and such a requirement could reduce the level of Fund advertising by smaller members, to the detriment of investors, since small print and media ads cannot readily accommodate these requirements.

4. In order that the new requirements conform to current financial reporting so as to minimize additional Fund expenses, Funds should be required to disclose operating expenses as a percentage of net assets, updated no less often than on a semi-annual basis. There should be a substantial “lead time” for compliance with the Proposal requirements in final form.

OppenheimerFunds Distributor, Inc. appreciates the opportunity to provide these comments in response to the NASD’s Proposal. If you have any questions concerning these comments or would like additional information, please contact the undersigned.

Sincerely,

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