

## Backgrounder - SEC Investor Advisory Committee

Prepared for April 6, 2011 Investor Advisory Panel Symposium<sup>1</sup>

### THE COMMITTEE

#### CREATION

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The Securities and Exchange Commission (the “SEC”) established the Investor Advisory Committee (the “Committee”) in 2009. The creation of the Committee in 2009 was not mandated by statute.

As of October 2010, the Committee was disbanded, and a new statutory investor advisory committee has been proposed under the *Dodd-Frank Act*. See Appendix B for details about this proposal.

#### MANDATE

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The Committee was established to:

- ◆ advise the SEC on matters of concern to investors in the securities markets;
- ◆ provide the SEC with investors' perspectives on current, non-enforcement, regulatory issues; and
- ◆ serve as a source of information and recommendations to the SEC regarding the SEC's regulatory programs from the point of view of investors.

### COMMITTEE MEMBERS

#### INVESTOR ADVISORY COMMITTEE MEMBERS

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Richard (Mac) Hisey (Co-Chair)	President of AARP Financial Incorporated and AARP Funds
Hye-Won Choi (Co-Chair)	Senior Vice President and Head of Corporate Governance for the Teachers Insurance and Annuity Association – College Retirement Equity Fund (TIAA-CREF) <sup>2</sup> .
Jeff Brown	Senior Vice President, Legislative and Regulatory Affairs, Charles Schwab & Co., Inc.

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<sup>1</sup> This document was prepared with valuable input from SEC staff.

<sup>2</sup> TIAA-CREF provides financial advice to help those in the academic, medical, cultural, and research fields plan for and live comfortably during retirement.

Mercer Bullard	Founder and President of Fund Democracy, Inc. and Associate Professor of Law, University of Mississippi Law School
Stephen Davis	Senior Fellow and Project Director, Yale University School for Management's Millstein Center for Corporate Governance, and nonexecutive chair of Hermes Equity Ownership Service
Abe Friedman	Managing Director, Global Head of Corporate Governance & Responsible Investment, BlackRock
Mellody Hobson	President of Ariel Capital Management
Fred Joseph (ex-officio)	President of the North American Securities Administrators Association and Securities Administrator for the State of Colorado, is an ex officio participant.
Adam Kanzer	Managing Director and General Counsel, Domini Social Investments LLC
Mark Latham	Director of Proxy Democracy, a nonprofit organization helping individual investors
Barbara Roper	Director of Investor Protection, Consumer Federation of America
Dallas Salisbury	President and CEO, Employee Benefit Research Institute
Kurt Schacht	Managing Director, CFA Institute
Damon Silvers	Associate General Counsel, AFL-CIO
Kurt Stocker	Chairman of the Individual Investors Advisory Board of the NYSE
Ann Yerger	Executive Director, Council of Institutional Investors

## COMMITTEE MEMBERS' TERMS

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The Committee's Charter does not provide for a maximum term for members. It does provide a termination date for the Committee of June 24, 2011 (two years following the creation of the Committee). However, as noted above, the Committee was disbanded as of October 2010.

## BUDGET AND FUNDING

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According to the Committee's Charter, the current estimated annual operating costs of the Committee in dollars and staff-years are as follows:

(1) dollar cost: \$175,836 per year, for the travel, per diem, and miscellaneous expenses of the Committee members and Commission personnel; and

(2) staff years: one staff-year, per year, of SEC personnel time on a continuing basis.<sup>3</sup>

Funding for the Committee is provided by from the SEC's budget.

<sup>3</sup> See <http://www.sec.gov/spotlight/invadvcomm/invadvcomm-charter.pdf>.

## SECRETARIAT

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Although there is no official secretariat, the Committee's Charter requires the SEC to provide any necessary support services to the Committee.

## SUB-COMMITTEES

The Committee created the following three subcommittees, which were announced in September 2009: (a) Investor Education, (b) Investor as Purchaser, and (c) Investor as Owner.

## ACTIVITIES

### RECOMMENDATIONS

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The Committee has made recommendations in the following areas:

#### **Regulation FD (Fair Disclosure) and Board-Shareholder Communication**

This recommendation addresses Regulation FD and board-shareholder communication, with a specific focus on the disclosure of information related to corporate governance. The Committee recommended that the Commission issue staff interpretive guidance to suggest ways in which issuers can address Regulation FD compliance concerns about the selective disclosure of material corporate governance information in private meetings with investors. These suggestions could include the use of confidentiality agreements or the use of other measures, such as in-house legal participation or pre-screening of discussion topics, that have developed as "best practices" since Regulation FD was adopted.

#### **Recommendation on Tagged Data for Proxy and Vote Filings**

This recommendation concerns the use of tagged data for certain proxy and vote filings. The Committee recommended that SEC staff, as part of its review of the US proxy voting system, study the costs and benefits of mandating a standardized tag-data format for the following three filings: (1) proxy filings (DEF 14A); (2) N-PX filings of mutual fund votes; and (3) corporate filing of voting results (currently contained in 8-K filings in untagged text format).

#### **Recommendation on PSA (Public Service Announcement) Campaign**

This recommendation concerns the use of a PSA campaign by the SEC to promote investor education issues. The Committee recommended that, as part of a broad and continuing investor education campaign, the SEC should create made-for-TV public service announcements using celebrities to teach the general public about basic, vital personal finance topics and direct them to appropriate resources and websites.

## SUBMISSIONS

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The IAC has not made any formal written submissions. It has held four meetings since its inception in June 2009. Discussions have covered the following topics:

- Mandatory arbitration (FINRA)
- Money market funds and NAV
- Public service announcement campaign (Education Subcommittee)

Subcommittee discussions have covered the following topics:

*Investor as Owner Subcommittee*

- Regulation FD
- Proxy Voting Transparency
- ESG Disclosure Work Plan
- Financial Reform Legislation & Impact on SEC

*Investor Education Subcommittee*

- Activity Report
- National Financial Capability Survey
- Public service announcement campaign

*Investor as Purchaser Subcommittee*

- Fiduciary Responsibility
- Mandatory Arbitration

## APPENDIX A – US SEC INVESTOR ADVISORY COMMITTEE CHARTER

## UNITED STATES SECURITIES AND EXCHANGE COMMISSION

## INVESTOR ADVISORY COMMITTEE

CHARTER<sup>4</sup>

**A. Committee's Official Designation.** The official designation of the committee is "Securities and Exchange Commission Investor Advisory Committee" (the "Committee").

**B. Authority.** The Committee is being established in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C.-App. 1, § 9(c).

**C. Objective and Scope of Activities.** The Committee's objective is to provide the Commission with the views of a broad spectrum of investors on their priorities concerning the Commission's regulatory agenda, including:

- 1) advising the Commission regarding matters of concern to investors in the securities markets;
- 2) providing the Commission with investors' perspectives on current, non-enforcement, regulatory issues; and
- 3) serving as a source of information and recommendations to the Commission regarding the Commission's regulatory programs from the point of view of investors.

The scope does not, however, include any policies, practices, actions or decisions concerning the Commission's enforcement program. The Committee need not reach consensus on every issue, and may choose to provide the Commission with differing or a range of opinions. The Committee should conduct its work with a view to furthering the Commission's mission of protecting investors; maintaining fair, orderly and efficient markets; and facilitating capital formation.

**D. Description of Duties.** The Committee shall function as an advisory body according to the procedures set forth in the Act. Its duties shall be solely advisory and shall extend only to the submission of advice or recommendations to the Commission. Determinations of actions to be taken and policy to be expressed with respect to matters within the Commission's authority upon which the Committee provides advice shall be made solely by the Commission.

**E. Agency or Official to Whom the Committee Reports.** The Chairman of the Commission, or a designee, shall receive the advice of the Committee on behalf of the Commission.

**F. Support.** The Commission shall provide any necessary support services for the Committee.

**G. Estimated Annual Operating Costs and Staff Years.** The estimated annual operating costs of the Committee in dollars and staff-years are as follows:

- (I) dollar cost: \$175,836 per year, for the travel, per diem, and miscellaneous expenses of the Committee members and Commission personnel; and

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<sup>4</sup> See <<http://www.sec.gov/spotlight/invadvcomm/invadvcomm-charter.pdf>>.

(2) staff years: one staff-year, per year, of Commission personnel time on a continuing basis.

**H. Designated Federal Officer.** A Commission employee will be appointed to serve as the Designated Federal Officer. The DFO, or a designee, will approve or call the Committee's and subcommittees' meetings, approve the meeting agendas, attend the Committee and subcommittee meetings, adjourn any meeting when the DFO determines adjournment to be in the public interest and chair meetings when directed to do so by the Chairman or a designee.

**I. Estimated Number and Frequency of Meetings.** The Committee shall meet at such intervals as are necessary to carry out its duties, currently anticipated to be quarterly

**J. Duration.** The Committee shall operate until the earlier of the termination date as set forth in Article K below, or the date on which the Commission determines that its continuance is no longer in the public interest.

**K. Termination Date.** The Committee shall terminate on June 24, 2011, which may be extended by amendment of this Article and renewal of this Charter in accordance with the Act before the termination date.

**L. Membership and Designation.** The Committee shall be composed of not more than 20 members who can effectively represent the varied interests of investors. The Committee's membership may include investors or investor representatives from a broad spectrum of institutions, such as mutual funds, foundations, and pension funds; investors representing different geographical regions; investors of different sizes and investment strategies; and individual investors. The Committee's membership will be fairly balanced in terms of points of view represented and the functions to be performed.

**M. Subcommittees.** The Commission may form subgroups or subcommittees as necessary to provide effective representation by all segments of the investor community. Such subcommittees and subgroups shall report any recommendations and advice to the Committee for full deliberations and discussion. Subcommittees or subgroups have no authority to make decisions on behalf of the Committee nor can they report directly to the Commission or any Federal officers or employees. Subgroups or subcommittees may meet more frequently, but are currently anticipated to meet approximately four times a year.

**N. Recordkeeping.** The official records generated by or for the Committee shall be handled in accordance with General Records Schedule 26, Item 2 or other approved .agency records disposition schedule. These records shall be available for public .inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.

**O. Filing of Charter.** The Committee is authorized to meet and take action as of the date of the filing of this Charter on June 24, 2009 with the Chairman of the Commission, the Committee on Banking, Housing, and Urban Affairs of the United States Senate, and the Committee on Financial Services of the U.S. House of Representatives.

Date: June 24, 2009

## APPENDIX B – DODD-FRANK ACT PROVISIONS RELEVANT TO THE COMMITTEE

The *Dodd-Frank Wall Street Reform and Consumer Protection Act* (the “**Dodd-Frank Act**”) aims to establish the Committee as a statutory committee within the SEC (the “**New Committee**”). The creation of the New Committee has been deferred (as of December 2, 2010) due to budget uncertainty.<sup>5</sup>

### MANDATE

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Under the *Dodd-Frank Act*, the New Committee is intended to:

- (A) advise and consult with the Commission on
  - (i) regulatory priorities of the Commission;
  - (ii) issues relating to the regulation of securities products, trading strategies, and fee structures, and the effectiveness of disclosure;
  - (iii) initiatives to protect investor interests; and
  - (iv) initiatives to promote investor confidence and the integrity of the securities marketplace; and
- (B) submit to the Commission such findings and recommendations as the Committee determines are appropriate, including recommendations for proposed legislative changes.

### MEMBERSHIP

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The membership of the New Committee will be made up of the SEC Investor Advocate<sup>6</sup>, a representative of state securities commissions, a representative of the interests of senior citizens and between ten to twenty investor representatives.

### TERM

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Members of the New Committee will serve for a term of four years.

### FUNDING AND COMPENSATION<sup>7</sup>

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Each member of the New Committee who is not a full-time employee of the U.S. government<sup>8</sup> will be entitled to receive compensation, calculated based on a daily equivalent of the annual rate of

<sup>5</sup> See <[http://www.sec.gov/spotlight/dodd-frank/dates\\_to\\_be\\_determined.shtml](http://www.sec.gov/spotlight/dodd-frank/dates_to_be_determined.shtml)>.

<sup>6</sup> The Investor Advocate is appointed by the Chairman of the SEC and should have experience in advocating for the interests of investors in securities and investor protection issues, from the perspective of investors. The Investor Advocate’s function is to (A) assist retail investors in resolving significant problems they may have with the Commission or with self-regulatory organizations; (B) identify areas in which investors would benefit from regulatory changes; (C) identify problems that investors have with financial service providers and investment products; (D) analyze the potential impact on investors of proposed regulations; and (E) to the extent practicable, propose to the Commission changes that may be appropriate to mitigate problems identified and to promote the interests of investors.

<sup>7</sup> Although the sources of funding for the Committee and the New Committee are not explicitly laid out in the Committee’s Charter or the *Dodd-Frank Act*, we understand that the funding will come out of the SEC’s budget.

\$145,700<sup>9</sup>, for each day during which the member is engaged in the actual performance of the duties of the New Committee.<sup>10</sup> Members will also be entitled to be compensated for travel expenses.

#### SECRETARIAT

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The *Dodd-Frank Act* does not provide for an official secretariat, but does require the SEC to provide necessary support services to the New Committee.

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<sup>8</sup> Members are not deemed to be employees or agents of the SEC solely because of membership on the New Committee.

<sup>9</sup> Salary Table No. 2011-Ex, Rates of Basic Pay for the Executive Schedule (Ex), Effective January 2011, online: <<http://www.opm.gov/oca/11tables/pdf/ex.pdf>>.

<sup>10</sup> Sec. 911 of the *Dodd-Frank Act*, "Sec. 39(e) Investor Advisory Committee".