



GAO

Accountability \* Integrity \* Reliability

United States General Accounting Office  
Washington, DC 20548

---

B-287213

February 16, 2001

The Honorable Phil Gramm  
Chairman  
The Honorable Paul S. Sarbanes  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Michael G. Oxley  
Chairman  
The Honorable John J. LaFalce  
Ranking Minority Member  
Committee on Financial Services  
House of Representatives

Subject: Securities and Exchange Commission: Disclosure of Mutual Fund After-Tax Returns

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (Commission), entitled "Disclosure of Mutual Fund After-Tax Returns" (RIN: 3235-AH77). We received the rule on January 19, 2001. It was published in the Federal Register as a final rule on February 5, 2001. 66 Fed. Reg. 9002.

The final rule requires mutual funds to disclose in their prospectuses after-tax returns based on standardized formulas that are comparable to the formula currently used to calculate before-tax average annual total returns. The rule also requires certain funds to include standardized after-tax returns in advertisements and other sales materials.

Enclosed is our assessment of the Commission's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Commission complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Thomas J. McCool,

Managing Director, Financial Markets and Community Investments. Mr. McCool can be reached at (202) 512-8678.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: The Honorable Jonathan G. Katz  
Secretary  
Securities and Exchange Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
SECURITIES AND EXCHANGE COMMISSION  
ENTITLED  
"DISCLOSURE OF MUTUAL FUND AFTER-TAX RETURNS"  
(RIN: 3235-AH77)

(i) Cost-benefit analysis

The Securities and Exchange Commission considered the costs and benefits of the rule and its impact on efficiency, competition, and capital formation as required by section 3(f) of the Exchange Act and section 23(a) of the Securities Exchange Act of 1934.

The effect on the economy, if only .01 percent of the \$2.1 trillion held by individual investors in taxable accounts is transferred to funds with higher after-tax returns because of the information required by the final rule, would be \$210 million.

The costs imposed on the funds by the final rule to collect and disclose the information are estimated at \$16 million, which is mainly an initial one-time cost for obtaining and developing new software and systems and training employees.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared an Initial and a Final Regulatory Flexibility Analysis in connection with the proposed and final rules, respectively. The analyses meet the informational requirements of the Act.

In discussing the alternatives considered to reduce the impact on small entities, the Commission concludes that having a different level of disclosure for small entities (funds) would be inconsistent with the level of investor information and protection that should be provided.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to title II of the Unfunded Mandates Reform Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On March 22, 2000, the Commission published a Notice of Proposed Rulemaking in the Federal Register. 65 Fed. Reg. 15500. In response, the Commission received 235 comments that are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget under the Paperwork Review Act. The preamble to the final rule contains the information required by the Act, including the estimated annual burden hours imposed by the collections, as amended by the final rule.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in sections 5, 6, 7, 10, 10(b), and 19(a) of the Securities Act (15 U.S.C. 77e, 77f, 77g, 77j, 77j(b), and 77s(a)) and sections 8, 24(a), 34(b), 38, and 38(a) of the Investment Company Act (15 U.S.C. 80a-8, 80a-24(a), 80a-33(b), 80a-37, and 80a-37(a)).

Executive Order No. 12866

As the rule is promulgated by an independent regulatory agency, it is not subject to the review requirements of the order.