2000

Introduction (Symposium: Mutual Fund Regulation in the Next Millennium)

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MUTUAL FUND REGULATION IN THE NEXT MILLENNIUM

INTRODUCTION

PROF. HAAS: It is my pleasure to welcome everyone here today. First, we'd like to thank our corporate sponsors for making this event possible: our friends at Global Financial Press, particularly Richard Kendall, Felice Cardon, Bill Kahn, and Maggie O'Dwyer; our friends at Bloomberg, Michael Bloomberg and Leslie Hendry; and lastly, our friends at Lipper & Co., particularly Ed Rosenbaum.

Yesterday, when I dropped into this room to see how the setup was progressing, I arrived at the same time that the audio-visual people were setting up the microphones. One gentleman spoke into the microphone the following words: "Test, test. Mutual Fund Regulation in the Next Millennium. Let's not have any." I responded, "I liked your proposal very much, but I do not think we can squeeze seven CLE credits out of it." I am sure that my suggestion for a symposium this year, the mutual fund industry and mutual fund regulation, was thought by many *Law Review* members to be quite radical. After all, not many symposia focus on the mutual fund industry.

I became interested in the industry not so much because I practiced in the area—because I did not—but because of my fondness for personal finance. Because of that fondness, being a mutual fund investor myself, I started to learn something about the law.

Never did I realize that the law was so incredibly complex, that the mutual fund industry is one of the most heavily regulated industries in our country today, and that the Securities Exchange Act of 1933[1] and the Securities Exchange Act of 1934[2] were not deemed good enough to protect investors, thus requiring something different. I think the reason we needed something different, something extra, was the fact that most mutual fund investors are people like us: retail investors trying to grow their savings for retirement and other purposes.

Mutual funds pool together small investments from people like us and give us the power of an institutional investor. They also provide, for a small fee, professional management services, services that most of us could not afford on our own. Lastly, they diversify our investments.

1. 15 U.S.C. § 77 (1994).
2. 15 U.S.C. § 78 (1994).

They provide immediate diversification, whether in stocks or bonds or a mix of both, thus reducing our risk with respect to companies, in particular, the so-called unsystematic risk. So they do serve a number of very important purposes for the small investor in particular.

The mutual fund industry is particularly worthy of academic study and intellectual discourse. As the mutual fund statistics provided by Lipper & Company evidence, the numbers involved in the industry are indeed staggering. Investment assets in mutual funds equal $6 trillion. If you include the $1.6 trillion residing in variable annuity products, that number rises to $7.6 trillion. Now, you are probably saying, exactly how large is that number? It is approximately 145 times the market capitalization of General Motors, and about one-half the market capitalization of Amazon.com. That is how large this industry is.

The industry is one of remarkable contrasts. Where else can you find fund directors in their seventies overseeing a portfolio manager in her twenties? Particularly alarming in this regard is that many portfolio managers managing our money have never experienced a sustained bear market. It will be interesting to see how these managers perform when a bear market comes around.

No doubt many believe, as I do, that this industry is at a crossroads. Is it an industry that has matured? Can it grow further without significant change? Can it compete effectively in the age of the do-it-yourself investor where information about investments flows freely on the Internet and stock trades can be effected for as low as $7 per trade?

We are focusing on the mutual fund industry today because this industry is vitally important to us and our future. There are over 77 million mutual fund investors in America today. These investors depend greatly on mutual funds to save and invest for their families' futures. Indeed, many of you, like me, probably have money deducted from every pay check you receive, and that money goes into mutual funds. It is quite an interesting and staggering development that so many people have invested in mutual funds today. Nothing is off limits in today's program. Our focus is on the future.