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Transfer Agents to SEC: Eliminate Suppression Fees

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The Securities Transfer Association has asked the Securities and Exchange Commission to help eliminate the fees which issuers are charged by broker-dealers and their proxy distribution agent Broadridge Financial Solutions to suppress the mailing of proxy materials to investors who place funds into separately managed accounts.

"The practice of charging issuers for not communicating [to the holders of such accounts] results in the unnecessary diversion of many millions of dollars each year to intermediaries that otherwise would be used by companies to benefit their shareholders," wrote Thomas Montrone, chairman of the proxy communications committee of the STA, the trade association representing transfer agents, in a June 2 letter to SEC Chairman Mary Schapiro.

A copy of the letter was obtained by *Securities Industry News* late Wednesday. Montrone is also president of transfer agent Registrar and Transfer Company in Cranford, N.J.

The separately managed account business operates on the premise that the high net-worth individuals who place \$100,000 or more into these accounts want specifically to have the funds managed for them, by experts, on a custom basis. As part of the arrangement, their fund managers can suppress the sending of notices to the account holders, since they are the parties managing the accounts.

Calling the "suppression fees" unreasonable, the STA estimated that issuers of corporate notices may have been charged \$50 million or more in 2008 and as much as \$40 million in the first four months of 2009 by brokers for not providing issuer communications to investors in SMAs.

Transfer agents are hired by corporations to administer the accounts of registered shareholders who hold shares in corporations on the books of issuers in their own name. An estimated 85 percent of all shareholders in the U.S. hold shares in Street name — aka the name of their financial intermediary who is also responsible for ensuring clients receive proxy materials.

According to the STA, issuers may be billed as much as \$1.06 per SMA account — a fee which has little relationship to the expenses which are actually incurred by either the broker-dealer or Broadridge Financial.

That fee reflects a basic processing fee of 40 cents, a suppression fee of 50 cents, an electronic voting fee of 6 cents and an intermediary fee of 10 cents for each shareholder.

Issuers who are taking advantage of the SEC's "notice and access rule" could be charged an additional fee of 25 cents per SMA account.

That means that for some issuer the cost of not having brokers supply materials to individual SMAs may be as much as \$1.36 per shareholder account.

The NYSE sets the maximum fees which broker-dealers may charge issuers for mailings of proxy materials. Most broker-dealers outsource their proxy mailing work to Broadridge Financial, the world's largest distributor of proxy information. Broadridge then collects the proxy fees on behalf of the broker-dealers.

The STA claims that the New York Stock Exchange has taken the "informal" position that issuers may not be charged suppression fees for providing proxy communication services to holders of so-called Wrap accounts, where a brokers manages an investor's portfolio for a flat quarterly or annual fee which covers all administrative, commission and management expenses.

Therefore, they should not do so for SMAs because "there should be any distinction drawn between Wrap accounts and SMAs for the purposes of proxy communications under the NYSE's fee schedule." Investors in Wraps and SMAs delegate day-to-day management of their accounts to investment professionals. A broker-dealer or other financial intermediary is typically given the authority to vote on behalf of the investor

The STA acknowledges that brokers can charge issuers a "suppression fee" of as much as 50 cents per shareholder account when they do not provide proxies to a shareholder.

However, the trade group insists that the suppression fees were designed to provide the issuer with an incentive to either "household" proxy materials or distribute proxy materials electronically. Householding refers to the practice whereby an issuer mails only one proxy package to shareholders of the same company who live at the same address.

The STA recommended that broker dealers and other financial intermediaries be allowed to consolidate their subaccounts prior to transmitting data to Broadridge for the purpose of proxy solicitation. "Once Broadridge has the data, then a single nominee fee and a single voting fee could be charged for the consolidated shares maintained by a broker or other institution with investment decision," wrote the STA.

Officials at the Money Management Institute, the Washington, D.C. trade group for the \$1.8 trillion SMA industry, were unavailable for immediate comment.

In responding to a request for an interview, Chuck Callan, executive vice president of regulatory affairs for Broadridge, countered the STA's analysis.

"Unlike mutual funds, the underlying shares in managed accounts are owned by the beneficial account holder who, for all practical purposes, is treated the same as someone who buys an individual stock position," wrote Callan. "The client owns the shares directly and has rights to sell, receive dividends and proxy communications, and vote. There is substantial proprietary technology involved in processing managed accounts."

Callan went on to say that such processing occurs on a daily basis and is not driven by a meeting alone. "It is dynamic, with substantial customization necessary to reflect the contractual arrangements between investors, investment advisors, and broker-dealers. For example, some account holders want to directly vote certain issues, proposals, companies, or industries, and delegate voting on other items.

Callan insists that without the technology and processing currently available, issuers would incur the costs of distributing materials to each individual account holder and fewer shares would be voted. That means issuers would likely face additional expenses related to the solicitation of investors.

The STA's request to the SEC about suppression fees is reflective of the trade group's broader dissatisfaction with the current proxy distribution system, which Broadridge dominates. SEC Chairman Schapiro has said that the SEC would be reviewing the process and issue a concept release on proposed changes shortly.

Broadridge Statement, 6/17/10

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