

Opening Statement
Chairman Michael G. Oxley
Financial Services Committee

**Subcommittee on Capital Markets, Insurance and Government Sponsored
Enterprises**

“Mutual Funds: Who’s Looking Out For Investors?”

November 4, 2003

Thank you, Chairman Baker, for holding this timely hearing.

It is often said that we have become – in the past two decades – a nation of investors. While unquestionably true, I believe that it would be more precise to say that we are now a nation of *mutual fund* investors. By an overwhelming margin, these pooled investment products have become the preferred way for ninety-five million Americans to access the stock markets.

So, we had better make sure these investors are protected.

It appears that we are now in the early innings of what already is the biggest scandal in the history of the 80-year-old mutual fund industry. We don't know everything yet, but what we do know is deeply troubling. Many commentators, some from industry itself, have called the revelations shocking. Large institutional investors have been given preferential treatment, to the detriment of individual investors and in violation of law and the funds' own stated policies. According to the firms themselves, some fund managers and executives have essentially been stealing from their own customers. At one large fund company, portfolio managers found to be market timing their own funds as far back as 1998 were not terminated, in fact not even disciplined, until a September subpoena brought this information to the public's attention.

Perhaps the most troubling aspect of all this illegal conduct is that it appears to be so widespread. We cannot say that a few bad apples have violated the fiduciary duty owed to shareholders. We cannot say that only a handful of mutual fund firms have mistreated their customers, the mom and pop investors who are supposed to be the industry's "bread and butter." And we cannot pretend that all of the fund companies were unaware of this conduct.

This Committee was concerned about mutual fund investor protection issues long before these recent revelations. It has been my view, and certainly one shared by Congressman Baker and other members, that a review of fund regulation and industry practices was inevitable given the Committee's work over the past few years. We have examined almost every other segment of the securities industry, including Wall Street's analyst conflicts and IPO allocation abuses, the accounting

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profession, corporate boards, the stock exchanges, credit rating agencies, and hedge funds.

In this post-Sarbanes-Oxley world, the investing public demands full disclosure of all relevant information---and rightfully so.

The Committee's year-long review of mutual funds makes clear that more transparency is needed with respect to fund fees, costs, expenses, and operations. There should be more useful disclosures regarding fund distribution arrangements so that investors are aware of any financial incentives that may influence the advice they receive. There should be stronger leadership by fund directors. And clearly, fund investors deserve better oversight of the industry by the SEC.

Congressman Baker's legislation, which passed this Committee by voice vote in July, addresses these issues in a responsible and measured way. In light of the recent scandals, I think few would disagree that it would be appropriate to consider strengthening the bill.

I yield back.

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