

Statement of Mercer Bullard, ZAG news release for study: Investor Timing and Fund Distributions Channels (Dec. 6, 2007)

Good morning, my name is Mercer Bullard. I am a securities law professor at the University of Mississippi School of Law, founder and president of Fund Democracy, an advocacy group for mutual fund shareholders, and a co-author of the study that is being released today.

I would like first to thank the Zero Alpha Group for sponsoring this study, and my co-authors who certainly deserve most of the credit for this important addition to the literature.

There are two lessons to take away from this study. First, it is a reminder of what has been known in academic and industry circles for some time, but underreported in the financial press. Mutual funds shareholders' investment performance is worse, in some cases much worse, than the performance of the funds in which they invest.

This seems counterintuitive. Shouldn't the published performance of the fund reflect the performance of the investors in the fund? If investors follow a buy and hold strategy their performance generally will match the performance of the fund. The problem is that they trade frequently, apparently drawn by the false allure of market timing.

Second, the study further highlights a serious flaw in the mutual fund distribution system. One might expect investors who seek advice from financial professionals to be less vulnerable to the false allure of market timing. Who should be more aware of the pitfalls of market timing than a financial professional? In fact, we found that the gaps between investors' performance and the performance of the funds in which they invest were largest for load funds and so-called no-load funds (which charge 12b-1 fees). Where brokers were compensated through loads and 12b-1 fees, it appears that their clients experienced larger performance gaps than when they paid advisers directly or invested on their own. For example, purchasers of B shares experienced performance gaps that were three times as large as for all pure no-load funds.

These findings corroborate other studies that have cast doubt on the value provided to investors through conventional fund distribution arrangements. There are many regulatory implications that arise from this study, the most prominent of which is the need, at a minimum, to require brokers to act in the best interests of their clients. Unfortunately, the SEC continues to oppose holding brokers who provide investment advice to a fiduciary standard. Even after its attempt to exempt a broad swath of brokers from their fiduciary obligations was soundly rebuffed by the courts, the SEC continues to seek to undermine centuries-old precedent that requires simply that those who hold themselves out as professionals act solely in the best interests of their clients.

Thank you for tuning in today. I will be happy to take your questions during the Q&A period.