

November 1, 2007

The Honorable Charles B. Rangel
Chairman
Committee on Ways & Means
U.S. House of Representatives
2354 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jim McCrery
Ranking Member
Committee on Ways & Means
U.S. House of Representatives
242 Cannon House Office Building
Washington, D.C. 20515

Re: Exchange-Traded Notes

Dear Chairman Rangel and Ranking Member McCrery:

The Investment Company Institute¹ urges the Ways and Means Committee to advance legislation that would change the tax treatment of exchange-traded notes ("ETNs") currently taxed as prepaid forward contracts.² The legislation we seek would eliminate the unwarranted and unintended tax advantages that these retail ETNs appear to have over mutual funds. The legislation would not apply to the majority of ETNs, the income from which is taxed currently under the contingent payment debt instrument rules.

ETNs provide investment opportunities similar to those provided by many mutual funds. By utilizing a gap in the tax laws regarding prepaid forward contracts, however, these ETNs provide their investors with tax treatment that is far superior to that provided to mutual fund shareholders. Specifically, investors in these ETNs receive tax-free deferral of their income and gains; mutual fund shareholders, in contrast, are taxed currently on the funds' income and gains (even when such income and gains are reinvested automatically in the fund).

Given the similarities between ETNs and mutual funds, the disparate tax treatment is inappropriate absent a compelling tax policy rationale. No such rationale exists. Indeed, tax policy points squarely in

¹ The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$12.5 trillion and serve almost 90 million shareholders.

² Exchange-traded notes, or "ETNs," are financial products structured as debt instruments, the return on which typically is based on the value of a specified index such as the S&P 500. ETNs currently on the market have maturities that range from five to thirty years. In recent years, these instruments have entered the retail space to compete with mutual funds.

November 1, 2007
The Honorable Charles B. Rangel
The Honorable Jim McCrery
Page two

the opposite direction. The Internal Revenue Code provides a comprehensive tax regime for mutual funds, including various qualification requirements that funds must meet. ETNs have circumvented these tax rules while providing a substantially similar investment. Importantly, investors in ETNs also do not receive the protections afforded to mutual fund investors under the Investment Company Act of 1940 and other federal securities laws.

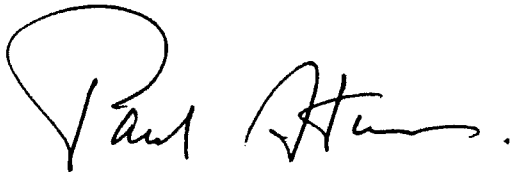
Unless the tax treatment of retail ETNs is corrected, mutual funds stand to become substantially less attractive to investors solely for tax reasons. The market impact in Europe of ETN-like structured notes clearly foretells this result.

Quick action is needed. The retail ETN market today includes many of these products that are structured as prepaid forward contracts. Others reportedly are being developed.

We appreciate the Committee's willingness to consider this matter. This change is important for mutual funds and their shareholders. We look forward to working with you to ensure its enactment. Should you have any questions, please feel free to contact me or Dan Crowley, ICI's Chief Government Affairs Officer at 202.326.5962.

With very best regards.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Schott Stevens". The signature is written in a cursive style with a large, looped initial "P".

Paul Schott Stevens
President & CEO
Investment Company Institute