

CHAPTER 24

Protecting Consumers

He's Rarin' to Fight for Fund Investors' Rights

Fund Democracy's Mercer Bullard says the industry, "has a pretty clean reputation." He wants "to keep it that way"

by Robert Barker

Do mutual-fund investors need a consumer advocate? Mercer Bullard thinks so. And just who is Mercer Bullard? A 39-year-old former Securities & Exchange Commission attorney, Bullard is the founder and CEO—and still the only employee of—Fund Democracy. He hopes to make Fund Democracy a force for change in the mutual-fund world. He has already ruffled feathers in the industry and among his former colleagues at the SEC.

To learn more about Bullard, who resembles no one so much as a youthful Robert McNamara (minus the Brylcreem), I met him recently over coffee and orange juice at The Cheesecake Factory in Ronald Reagan Washington National Airport. BW subscribers looking for more information on Bullard can see my column "The Unsung Hero of Fund Investors" in the Nov. 27 issue of the magazine. Below are edited excerpts from our discussion:

Q: What is Fund Democracy?

A: Fund Democracy, I hope, will be viewed as the leading mutual-fund shareholder advocate. Its goal is to effect change in the industry, to help shareholders get more for their dollar, and to protect their interests.

Q: Why do fund investors need this?

A: The mutual-fund industry is very well run and has a pretty clean reputation. Fund Democracy would like to keep it that way. There have been assaults in the last few years on some of the core protections that are available to mutual-fund investors, protections that aren't available, for example, in hedge funds, and some of the other products that have come along and experienced major [investment] losses.

Q: Is that all?

A: Fund Democracy would like to see...[that] more information that investors need to make informed investment decisions is made available, and made available in an electronic format that's easier to use.

Q: Why should anyone trust you to lead this charge?

A: Fund Democracy is the only entity out there that's completely independent of the industry, receiving absolutely no financing from any financial-services entity [or] any mutual fund. Ultimately, its revenues will be generated by providing [analysis and commentary] to financial planners and retail investors. It will take no revenues whatsoever, unlike Wiesenberger and Morningstar and some other information] providers, from the mutual-fund industry.

Q: Don't we have the government to do this for us?

A: The government is limited. The SEC has to spend 99% of its time dealing with requests from the industry. There simply isn't an effective mutual-fund shareholder voice out there, and there certainly isn't one that has the technical expertise that Fund Democracy, with its regulatory background, can bring to bear on the issues. Internally, the SEC is applauding Fund Democracy's ability to establish a voice out there for change that gives it the leverage as a regulator to get rules implemented that shareholders need.

Q: What's the single worst problem for mutual-fund investors today?

A: The change that I would most like to see would be to revise the standard that directors are subject to when reviewing mutual-fund fees.

Q: What do you mean?

A: Because fund directors simply aren't held to a "reasonableness standard" under law, they have very little incentive to negotiate hard to reduce fees. Nowhere could fund shareholders gain more at the bottom line than if directors had stronger incentives to fight hard for lower fees.

Q: Why should directors fight for investors?

Aren't they beholden to the fund company?

A: Fund directors, like most professionals at that level, operate based on the expectations that the law creates. They fulfill the fiduciary duties that their lawyers tell them that they're obligated to fulfill. Unfortunately, the law sets a very low standard for them. It's not that they're not doing a good job, it's that they're being told that fund investors simply don't expect very much. If you change the law, you will change directors' behavior and you will get lower fees.

Reprinted with permission from BusinessWeek, 11/17/00.