December 19, 2013

Gary Gensler

Chairman

Commodity Futures Trading Commission

Three Lafayette Centre

1155 21st Street, NW

Washington, DC 20581

Dear Chairman Gensler:

As Chairman and member of the Senate Special Committee on Aging, we take very seriously our responsibility to safeguard the investment security of older Americans. We were therefore concerned by the recent article in Bloomberg Markets entitled “Fleeced By Fees.” This story detailed the proliferation of managed-futures funds. It found that the fees and commissions associated with these financial vehicles are so high that often the potential profits from their operation are largely consumed by them to the detriment of the often unwitting investor. For what was described as a $337 billion dollar industry, these practices are disturbing.

One example cited revealed that investors who kept their money in one such managed-futures fund earned nothing because the profits were consumed by $498.7 in commissions, expenses, and fees paid to the fund managers and the fund’s investment bank. Even a representative of that bank admitted: “Fees associated with managed-futures fund across the industry have been historically high.” Data filed with the SEC and analyzed by Bloomberg Markets shows that “89 percent of the $11.51 billion in gains in 63 managed-futures funds went to fees, commissions, and expenses” during the decade from January 1, 2003, to December 12, 2012. In the past four years ending Dec. 31, twenty-nine of these funds left investors with “an aggregate deficit of $1 billion.”

One of your Commissioners, Bart Chilton, told Bloomberg Markets: “The big news here is, the fees are so outlandish, they can actually wipe out all of the profits…We absolutely need to do a better job of letting consumers now in plain English what is going on. These numbers tell a story. It’s astounding.” Because this market is not well understood, investors do not have a strong understanding of what the fees are or the impact they can have of any profits.

Clearly, individual investors, especially senior investors looking to find a suitable place to place their retirement savings, should be made aware of these managed-future funds’ fees and commissions and the draining effect upon their investments. Although these funds are purported to be for sophisticated investors, some of these firms have a very low minimum investment that can be made from an Individual Retirement Account (IRA). We are very concerned about the potential impact these fees could have on the retirement security of the Americans who invest in these funds. A director of the Futures Industry Association told Bloomberg, “I actually would not even encourage most retail investors to be in managed futures … It’s on the riskier end of the investment spectrum.”

Certainly one improvement for the protection of unwary investors would require that managers of these managed-futures funds clearly explain in writing how severely fees and commissions can consume or affect gross profits over time. Since aspects of oversight of this industry are shared by CFTC and SEC, we request that the CFTC confer with SEC officials and study what specific disclosures and additional investor information might improve the opportunity for investors in all managed-futures funds to retain more of the substantial profits the industry is making – and keeping – through what appear to be unreasonably high fees, commissions, and expenses. Thank you for your attention to this matter.

Sincerely,

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Bill Nelson Elizabeth Warren

Chairman U.S. Senator

Cc: Mary Jo White, Chair, U.S. Securities and Exchange Commission