INVESTMENT COMPANY INSTITUTE

April 4, 2003

Office of the Secretary
Public Company Accounting Oversight Board
1666 K Street, NW
Washington, D.C. 20006-2803

Re: Proposal for Establishment of Accounting Support Fee
PCAOB Rulemaking Docket Matter No. 002

Dear Sir or Madam:

The Investment Company Institute[1] appreciates the opportunity to comment on the Public Company Accounting Oversight Board's proposal to establish an annual accounting support fee to cover the funding costs of the Board's operations, as required by Section 109 of the Sarbanes-Oxley Act of 2002.[2] The Board's proposal specifies the manner in which these funds are to be collected from issuers.

The Institute strongly supports the Board's mission to protect investors by ensuring that an issuer's financial statements are audited according to the highest standards of quality, independence and ethics. In order to fulfill this mandate, it is necessary for the Board to have adequate funding. At the same time, however, it is important that the issuer fees that will be collected to fund the Board are assessed in an equitable manner. The Board's proposal is responsive to this goal, as it would assess investment companies support fees at a lower rate than other issuers, recognizing that audits of investment companies are relatively less complex than audits of other issuers. For this reason, we support the Board's proposal. Our specific comments follow.

Section 109(d) of the Sarbanes-Oxley Act authorizes the Board to establish rules for the equitable allocation, assessment, and collection of fees among issuers, *"allowing for differentiation among classes of issuers, as appropriate."* To that end, the Board's proposal would allocate the accounting support fee into two classes of issuers: (1) publicly-traded companies with average, monthly U.S. equity market capitalizations during the preceding year, based on all classes of common stock, of greater than $25 million, and (2) investment companies with average,

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[1] The Investment Company Institute is the national association of the American investment company industry. Its membership includes 8,929 open-end investment companies ("mutual funds"), 553 closed-end investment companies and 6 sponsors of unit investment trusts. Its mutual fund members have assets of about $6.322 trillion, accounting for approximately 95% of total industry assets, and 90.2 million individual shareholders.

[2] *Board Funding Proposal for Establishment of Accounting Support Fee,* PCAOB Release No. 2003-002 (March 14, 2003) ("Proposing Release"). As the Proposing Release notes, the accounting support fee would be collected in part from public companies, and would consist of funds to cover the Board's annual budget, less registration and annual fees paid by public accounting firms.

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monthly U.S. equity market capitalizations (or net asset values) of greater than $250 million.[3] Under the Board's proposal, issuers subject to the fee will be allocated a share of the Board's budget based on their market capitalization (or net assets) relative to total equity market capitalization (including fund net assets). For purposes of this allocation, the market capitalization of an investment company issuer will be ten percent of the investment company's net asset value.[4]

As the Board's proposal points out, this allocation would result in a lower assessment on investment companies, in recognition of the investment company structure and the relatively less-complex nature of investment company audits (as compared to operating company audits).[5] We strongly agree. As we stated in an earlier letter to the SEC regarding PCAOB funding, a reduced assessment rate for investment companies is entirely appropriate given (1) the relatively simple and straightforward accounting and auditing processes applicable to funds, and (2) the overlay of substantive regulation of funds imposed by the Investment Company Act of 1940, combined with periodic on-site inspection by SEC staff.[6] For these reasons, basic fairness supports the notion that investment companies should pay a substantially reduced fee rate.[7]

We further believe that the ten percent fee rate under the proposal is an appropriate one. The relative amount of audit fees paid by issuers is an appropriate indicator of the complexity and risk associated with an audit. It also provides a sound basis for estimating the amount of time and resources the Board will likely devote to different classes of issuers. The Institute has compared audit fees paid by investment companies relative to their net assets and audit fees paid by publicly-traded companies relative to their market capitalization.[8] This comparison revealed that audit fees paid by large investment companies ($50 billion or more in net assets) amounted to 2.54 percent of those paid by large publicly-traded companies ($50 billion in market capitalization). Audit fees paid by small investment companies (less than $100 million in net assets) amounted to 13.45 percent of audit fees paid by small publicly-traded companies (less than $100 million in market capitalization). Taken together, this indicates that assessing

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[3] Under the proposal, unit investment trusts that have not filed or updated a registration statement that became effective during the preceding year would pay no fee. We strongly support the proposed treatment of unit investment trusts, which recognizes that the static nature of their portfolios does not raise significant ongoing review by outside auditors and, that, therefore, their investors would realize little if any benefits from support fees in the years following their initial offering.

[4] Proposed Rule 7101(b)(1).

[5] *See* Proposing Release at 2.

[6] *See* Letter from Craig S. Tyle, General Counsel, Investment Company Institute, to Jackson M. Day, Acting Chief Accountant, U.S. Securities and Exchange Commission, dated December 20, 2002 ("Institute Letter").

[7] As the Proposing Release recognizes, this position is consistent with the legislative history on the issue. *See* Floor Statement of Sen. Enzi, 148 CONG. REC. S7356 (July 25, 2002) (noting that investment companies as a class should pay a lower fee rate that is consistent with the reduced risk they pose to investors when compared to an individual company).

[8] *See* Institute Letter, *supra* n. 6.

investment companies at a rate of ten percent of that assessed publicly-traded companies is an appropriate level of assessment.

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We appreciate your consideration of our comments. If you have any questions, please contact the undersigned at (202) 326-5851.

Sincerely,

Gregory M. Smith

Gregory M. Smith
Director – Operations/
Compliance & Fund Accounting

cc: Charles D. Niemeier, Acting Chairman
Kayla J. Gillan, Board Member
Daniel L. Goelzer, Board Member
William Gradison, Board Member

Public Company Accounting Oversight Board

Jackson M. Day, Acting Chief Accountant

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