cc: Attn Jonathan Katz
Securities and Exchange Commission
450 Fifth St.
Washington DC

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Office of Management and Budget
Attn: Desk Officer of the Securities and Exchange Commission
Fax (202) 395-7285

April 27, 2004

Regards: File Number S7-11-04, Rule 22c-2, .
Release No. IC 26375A, No control number
Proposed Rule for Mandatory Redemption Fees

Dear Desk Officer David Rosker

There are several glaring mistakes in the estimated cost of the collection of information with the Proposed Rule for a Mandatory Redemption fee (file number S7-11-04). The proposed rule states that the collection of information among the funds will cost much more than the intermediaries, but it is the other way around.

I would like to refer to the Federal Register, Vol. 69, No. 48, dated March 11, 2004. We call the three different methods of collecting the redemption fees under the names "Under Paragraph (b)(1)", "Under Paragraph (b)(2)", and "Under Paragraph (b)(3)". They allegedly have huge differences in cost.

Regarding method of Paragraph (b)(1):

The Funds' cost to "develop and upgrade its systems for the storage of information received from the intermediaries, evaluate transactional data to match purchases and redemptions within a shareholder's account and assess redemption fees would be $560,000 per fund" (Page 9, item one.) Even though the intermediary sorts out all of the above data to send to the fund, the proposed rule states it will allegedly only cost them $100,000 per intermediary. However, all the work of sifting out the right data or "mining' the data was done by the intermediary and sent to the fund. The fund has the easier job. In actuality, it will cost the intermediary more than the $560,000 that it costs the fund. This is in contrast to the estimate of $100,000 per intermediary in the proposed rule in the Federal Register on the same page 9.

Regarding method of Paragraph (b)(2):

Under paragraph (b)(2) the Rule Proposal in the Federal Register estimates that it will cost the intermediaries only $10,000 per intermediary. However essentially the same information is "mined" and sent to the Fund, absent the Tax Identification Number. The true cost to the intermediary is nearly the same as the $560,000 that it costs the Fund. Under paragraph (b)(2) the intermediary must develop and upgrade the systems "to provide the fund as to the redemption orders upon which the fund must charge a redemption fee, and transaction and holdings information sufficient to permit the fund to assess the amount of the redemption fee." The estimate in the rule proposal in the Federal Register is off by a factor of approximately 56. A perusal of the comments of intermediaries submitted and recorded on the "sec.gov" rule comment website confirms the fact that it will cost the intermediaries about half a million dollars using the method under paragraph (b)(1), (b)(2) or (b)(3).

Shas Das who co-authored the proposed rule is a very intelligent man and agrees that intermediaries do more "legwork" in (b)(2) than (b)(1). He does not have a good answer why the estimates are so much lower. Call him at (202) 942-0690. He thinks that you have an entire team there at the OMB working for you that can correct the math.

Regarding the method of paragraph (b)(3):
The authors of the proposed rule state that there is no real collection of information under the method of paragraph (b)(3) when the intermediaries themselves send in the redemption fee to the fund. It seems absurd to contend that the fees were sent in to the fund without collecting basically the same information that is required under paragraphs (b)(1) and (b)(2). Here again the capital costs for system setup are approximately $560,000 per intermediary.

Logic compels us to believe there is an actual collection of information here under (b)(3). It is transmitted with the redemption fee. Here alone the new rule proposal is off by over 1.7 billion dollars. ($560,000 x 3400 intermediaries who theoretically will choose this method).

All in all it will cost the intermediaries alone, many of them small entities, about ten billion dollars for the first three years after adoption of the proposed rule S7-11-04.

The Securities Law Daily has estimated that the trading abuses addressed in this Proposed rule now total about 20 million dollars per year since the recent crackdown across the country. Does this meet the cost-benefit analysis of the Paperwork Reduction Act of 1995 ? Spending a lot to get a little?
Intermediaries and small entities will be spending 10 billion dollars over three years to protect a loss of 60 million dollars. Does it meet the standards of the Regulatory Flexibility Act?

Dennis Gordon, CPA