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March 10, 2008

Ms. Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-9303

Re: Disclosure of Mutual Fund Divestment
SEC File No. S7-02-08

Dear Ms. Morris:

The Investment Company Institute¹ supports the amendments to Forms N-CSR and N-SAR proposed by the Securities and Exchange Commission to implement the provisions of Section 4 of the Sudan Accountability and Divestment Act of 2007 (the "Act").² We recommend, however, several minor revisions to the amendments prior to their adoption. These recommendations are that the Commission:

- Conform the disclosure elements to those already required by the forms;
- Conform the period covered by the disclosure to that currently used for the financial statements;
- Eliminate the requirement to disclose separately those positions the investment company continues to hold in a divested offering;
- Permit the amendments to Forms N-CSR and N-SAR to disclose divestments occurring since the Act's enactment before adoption of the revised forms in order to enable reliance on the Act's safe harbor for such divestments; and
- Include a sunset in the amendments.

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 \$12.68 trillion and serve almost 90 million shareholders.

² *Disclosure of Divestment by Registered Investment Companies in Accordance with Sudan Accountability and Divestment Act of 2007*, SEC Release Nos. 34-57306 and IC-28148 (Feb. 11, 2008) (the "Release").

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These recommendations and our comments on other issues raised in the Commission's Release are briefly discussed below.

Section 4 of the Act added a new subsection (c) to Section 13 of the Investment Company Act of 1940. This new subsection provides a safe harbor from any civil, criminal, or administrative action for any registered investment company or any employee, officer, director, or investment adviser thereof "based solely upon the investment company divesting from, or avoiding investment in, securities issued by persons that the investment company determines . . . conduct or have direct investments in business operations in Sudan." This provision is conditioned upon the investment company or any of its employees, officers, or directors or its investment adviser making disclosures regarding such divestment in accordance with a rule adopted by the Commission for this purpose.

The Commission has proposed to amend Forms N-CSR and N-SAR to enable registered investment companies to disclose to the Commission specific information regarding any securities they divest in accordance with the Act's safe harbor. This information includes the issuer's name, exchange ticker symbol, CUSIP number, total number of shares, and dates of divestment. For serial divestments, the Commission proposes to permit disclosure either in connection with each discrete divestment, or upon the completion of the series of divestments. In the event the registered investment company will continue to hold shares in a holding being divested, the forms would additionally require disclosure about such holdings.

We support the vast majority of the proposal's divestment disclosure provisions. We particularly support using Forms N-CSR and N-SAR as the divestment disclosure vehicles because the use of existing forms will simplify the disclosure process. We also support the flexibility proposed for the treatment of serial divestments. For the most part, we believe each of the proposed disclosure elements is appropriate and will provide to interested persons necessary information regarding the investment company's divestment. We recommend, however, that the forms not require disclosure of the exchange ticker symbol or the CUSIP number of the shares being divested. This information is not currently required to be disclosed in connection with the disclosure of securities held by the fund, so it seems odd to require it for divested securities. Indeed, conforming the new disclosure requirements with existing requirements should facilitate populating the form. Until such time as the Commission amends these forms to require disclosure of this information in connection with securities held by the fund, we recommend that it refrain from requiring such disclosure in connection with divested securities.

We also recommend that the period covered by the divestment disclosure be the same as that applicable to the financial statements included in the filing, rather than the period since the last Form N-CSR filing. In our view, establishing incongruous reporting periods for the disclosure of divested securities, as is currently proposed, is confusing and unnecessarily complicates the reporting process.

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To avoid such incongruity, we recommend that the Form N-CSR filing that includes the fund's semi-annual financial statements disclose divestments during the first six months of the fund's fiscal year and the filing that includes the fund's annual financial statements disclose divestments during the final six months of the fund's fiscal year. Our proposed change would eliminate the need to file a subsequent amendment detailing sales that took place during the five-day period prior to the filing. To effect our recommendation, proposed Item 6(b) should be revised and proposed Instruction 2 to Item 6(b) should be deleted. Similar changes should be made in Form N-SAR. We believe that conforming the period applicable to the reporting of divested securities to that for the fund's financial statements will facilitate completion of the form and eliminate the need for subsequent amendments.

One aspect of the proposal we recommend the Commission reconsider in its entirety is proposed Item 6(b)(6) of Form N-CSR and Item 133(F) of Form N-SAR. Each of these items would require separate disclosure of positions the registered investment company *continues to hold* in a divested offering. We do not believe funds should be required to identify continued holdings for two reasons. First, funds are not relying on the protections afforded by the safe harbor for their decision to continue to hold a particular security. The Act's safe harbor only requires disclosure made in connection with a decision to divest. Second, additional separate disclosure is unnecessary since, collectively, Forms N-1A, N-Q, and N-CSR currently require disclosure of a fund's investment holdings. It seems odd that, in addition to providing existing portfolio holdings disclosure, the fund would have to separately and additionally disclose continued holdings in partially divested securities. To the extent such information is of interest to the public, it would already be available through existing disclosure requirements. Accordingly, we see no public purpose being served by singling out such holdings for additional, special disclosure, and we recommend deletion of this requirement from both Forms N-CSR and N-SAR.

The Commission's Release seeks comment on whether a registered investment company should be able to avail itself of the Act's safe harbor by amending a previously filed Form N-CSR or N-SAR to disclose divestments occurring after the Act's enactment but before adoption of the Commission's disclosure rule. We strongly recommend that the Commission permit investment companies that divested after the Act's effective date (*i.e.*, December 31, 2007) but before adoption of the amended forms to avail themselves of the Act's safe harbor. It would appear, based on the fact that Section 4 of the Act took effect upon enactment, rather than at some delayed future date, that Congress was interested in protecting divestment decisions as soon as practicable. Allowing funds to amend previous filings would appear to promote this interest, while fulfilling the Act's requirement that a registered investment company make the required disclosures in its next periodic filing following the decision to divest.

Our final recommendation relates to including a sunset provision in the proposed amendments. Such a provision would ensure that, once the Act's divestment provisions terminate due to the President certifying Sudan undertaking certain actions, the divestment amendments to these forms would similarly terminate. The Institute supports including a sunset provision in the proposed

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amendments. While it is true, as pointed out in the Release, that such a sunset may be unnecessary because there would no longer be divestments in accordance with the Act, we believe it is appropriate to include the sunset to avoid confusion and the possibility of “disclosure creep.” In the absence of such an automatic sunset, the divestment disclosure provisions would remain part of the forms, which would unnecessary clutter them and potentially confuse filers. To avoid this result, we support including an automatic sunset.

The Institute appreciates the opportunity to comment on this proposal. If you have any questions concerning our comments, please contact me at 202-326-5825 or Bob Grohowski of the Institute at 202-371-5430.

Sincerely,

A handwritten signature in black ink, appearing to read "Tamara K. Salmon". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Tamara K. Salmon
Senior Associate Counsel

cc: Andrew J. Donohue, Director
Devin F. Sullivan, Attorney, Office of Disclosure Reform
SEC Division of Investment Management