



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

November 22, 2005

The Honorable Olympia J. Snowe
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
SR-428A Russell Senate Office Building
Washington, DC 20510-6350

Dear Olympia:

Thank you for your letter of support for the SEC Advisory Committee on Smaller Public Companies, and for the leadership that you and Mike Enzi have shown on behalf of ensuring the access of small businesses to our nation's capital markets.

I, too, am a strong proponent of the Advisory Committee and its mission. Small business is the critical engine of growth in our country. The work of the Advisory Committee is very significant, and the SEC is fortunate to have the opportunity to receive advice and guidance from such a knowledgeable group of professionals. I very much support the work of the Advisory Committee, and the other Commissioners and I are anxious to receive and review its recommendations.

I also appreciate your support for the SEC's September 25, 2005 action to defer for twelve months implementation of Section 404 of the Sarbanes-Oxley Act for smaller companies, which will afford the Commission the opportunity to review the important work of the Advisory Committee.

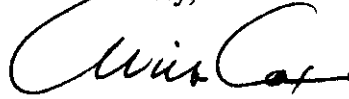
Your letter asked four specific questions seeking to better gauge the depth of small business involvement in the SEC's regulatory process. To provide you with a sufficiently detailed response, I have attached a memo prepared by Alan Beller, Director of the Division of Corporation Finance, responding to each of these four questions. Please don't hesitate to contact me if you require any additional information.

I look forward to continuing to work with you and the Committee on Small Business and Entrepreneurship to strengthen our nation's smaller public companies and protect the interests of investors in these companies.

The Honorable Olympia J. Snowe
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Thanks again for your letter, and for your kind words on my appointment as Chairman. I look forward to working closely with you throughout my tenure at the SEC.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Cox", written in a cursive style.

Christopher Cox
Chairman

Attachment

MEMORANDUM

November 14, 2005

To : Chairman Cox

From : Alan Beller, Director
Division of Corporation Finance

Re : Response to Senator Snowe's October 26, 2005 letter

You have asked me to respond to the questions Senator Snowe asked in her October 26th letter to you. I have provided a response to each question below.

Question 1

What steps is the SEC taking to facilitate ongoing communications between the SEC, the Advisory committee, and small public companies that are affected by SEC regulations?

Answer

The SEC has taken a number of very important steps to facilitate communication among these groups, and especially with small public companies. Both the SEC staff and the Advisory Committee members have actively sought public input on the concerns of small public companies. For example, shortly after former Chairman Donaldson formed it, the Advisory Committee began seeking public input by publishing, for public comment, a summary of its proposed agenda in the *Federal Register*. The Committee received a number of comments, which it took into consideration as it finalized its agenda. In August, the Advisory Committee again sought public input by publishing 29 questions for public response. The Committee received responses to these questions from over 250 individuals and organizations, including a substantial number of public companies. Additional information on these efforts, as well as other important information about the actions and collaborative work of the Advisory Committee and the SEC, can be found on the SEC web site at <http://www.sec.gov/info/smallbus/acspc>.

In addition, the Advisory Committee and the SEC staff have worked together in other areas seeking input in connection with their efforts on behalf of smaller public companies. As an example of these efforts, the Advisory Committee has held several meetings in Washington and four sets of hearings across the country (in Chicago, San Francisco and New York) in which 36 witnesses have provided their views. Interested parties also have submitted numerous written submissions to the Advisory Committee in connection with those hearings.

The SEC staff is providing extensive professional and administrative support to the Advisory Committee. Experienced staff lawyers, accountants and economists are in daily

contact with Advisory Committee members. The SEC staff answers questions and provides data, feedback and technical assistance. They provide the senior staff and the Commission with frequent updates on the Advisory Committee's work. At the senior staff level, I have had numerous conferences with the Committee co-chairs and have met with the Committee in Washington and San Francisco.

All members of the Commission have expressed support for the work of the Advisory Committee. In addition to your meetings with the co-chairs and your address to the entire Committee on October 24th, Commissioner Atkins addressed the Committee in San Francisco on September 19th. Then-Chairman Donaldson addressed the Committee at its inaugural meeting.

Finally under the mandate of the Omnibus Small Business Capital Formation Act of 1980, the SEC conducts an annual government-business forum on small business capital formation. The SEC Commissioners and SEC staff attend and listen to participants from the small business sector. This year's forum on small business capital formation was held on September 19th in San Francisco in conjunction with a meeting of the SEC Advisory Committee on Smaller Public Companies. This was a unique opportunity for the Advisory Committee members to again hear, firsthand, the concerns about smaller public companies. Commissioner Atkins and I attended and participated in this year's forum.

Question 2

After the Advisory Committee publishes its findings, how will the SEC assure that going forward the views and concerns of small businesses are considered during the regulatory formation process?

Answer

I am confident that you and the Commission will seriously consider any recommendations of the Advisory Committee. You mentioned in your remarks to the Advisory Committee on October 24th that you will be interested in receiving and reviewing the work product of the Advisory Committee early next year and expect that the Commission will give it serious consideration.

The SEC considers the views and concerns of small businesses daily. We have had within the Division of Corporation Finance an Office of Small Business Policy for a number of years. The staff of this Office oversees many of the rulemaking initiatives that directly affect small businesses and it reviews all other proposed rulemakings to make sure they reflect, if and as appropriate, the needs and special circumstances of smaller companies. The Chief of the Office serves as the SEC's special ombudsman for small business to assist small businesses and to represent the concerns of smaller companies within the SEC. We encourage small businesses to discuss concerns they have about any SEC proposal or rule with the Office Chief or the staff of the Office. To further the goals of the Office, the Chief and his staff meet frequently with groups representing the

interests of small businesses, other government agencies, and as requested, congressional committees. These activities will continue long after the Advisory Committee provides the SEC with its final recommendations.

The Regulatory Flexibility Act requires the SEC to consider the special needs of small entities in evaluating proposed rules and rule changes for all rules subject to notice and comment under the Administrative Procedure Act. In complying with this mandate, the SEC conducts regulatory flexibility analyses that take into account the economic impact of rules on small entities. The development and analysis of realistic alternatives to the rule are major components of this analysis.

The Regulatory Flexibility Act also requires the SEC chairman to assure that small entities have an opportunity to participate in the rulemaking when a rule would have a significant impact on a substantial number of small entities. Previous SEC chairmen have satisfied this obligation by, among other things, encouraging the Commission specifically to seek input from small entities and trying to make it easy for small entities to provide input into the rulemaking process, such as by accepting comments on rules by e-mail. I expect you will encourage similar outreach efforts.

Question 3

How is the SEC working with organizations like the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and the Financial Accounting Standards Board, as well as others, to coordinate small business regulatory standards and issue timely and practical guidance to small companies?

Answer

The SEC works with various groups and organizations to coordinate small business regulatory standards and issue timely and practical guidance to small companies. These activities are carried out in several different areas of the Commission in addition to the Office of Small Business Policy, which was discussed above.

With the strong encouragement of the SEC staff, in January 2005 COSO began a project to provide enhanced guidance to smaller businesses on how to apply its *Internal Control-Integrated Framework* to assist those companies in complying with Section 404 of the Sarbanes-Oxley Act of 2002. This project is intended to provide guidance as to how small businesses may apply the COSO framework to achieve effective internal control over financial reporting. The SEC staff has been supportive of COSO's efforts to develop this guidance. A member of the SEC staff serves as an observer to the COSO task force working on this project. The task force exposed for public comment a draft document entitled "Guidance for Smaller Public Companies Reporting on Internal Control over Financial Reporting" on October 26, 2005. The staff will monitor the comment process and any subsequent work of COSO on this project to confirm and evaluate its impact.

As part of the SEC's role in overseeing the FASB, the SEC staff monitors the FASB's accounting standard-setting activities. The FASB solicits public comments from stakeholders, including small businesses and their advisors. In 2004, the FASB established its Small Business Advisory Committee, in an effort to obtain more active involvement by the small business community in the development of financial accounting and reporting standards. The Board expects to meet at least two times each year with the Committee. In addition, Committee members provide ongoing input to the Board on current and potential standard-setting projects. A member of the SEC staff attends the meetings of this Committee with the Board as an observer.

In connection with the SEC's role in overseeing the Public Company Accounting Oversight Board, the SEC approves all PCAOB rules and standards, as well as the PCAOB budget. In addition, the SEC and its staff monitor the PCAOB's standard-setting activities. During the PCAOB standard setting process, the PCAOB solicits input from its Standing Advisory Group, whose members come from a variety of backgrounds, including some from smaller audit firms and smaller businesses. The PCAOB has also sought input through various roundtables and panels in order to obtain additional perspectives from smaller companies and audit firms. Additionally, PCAOB rules and standards are exposed for public comment, first by the PCAOB, and then by the SEC during its oversight process.

The PCAOB has also held a series of forums throughout the country in 2004 and 2005, to help bring information concerning the PCAOB to the small business community. These forums are for registered accounting firms and public companies in the small business community to learn more about the work of the Board, specifically the PCAOB inspections process and the impact of new auditing standards.

Additionally, representatives of the SEC, FASB and PCAOB have met periodically to discuss pending projects and other matters of mutual interest to coordinate efforts. I anticipate that such meetings will continue.

Question 4

What is the SEC's opinion of tiered compliance and regulatory measures that would impose a lower compliance burden on the smallest public companies, with compliance and regulatory requirements increasing as company size increases?

Answer

The SEC is looking closely at this issue. In establishing the Advisory Committee, the Commission stated that it "expects that the Committee will provide recommendations as to where and how the Commission would draw lines to demarcate companies that warrant tailored regulatory treatment based on size."

In the past, Congress and the SEC generally have followed a policy of setting uniform rules to enter and maintain a presence in the public U.S. securities markets, regardless of

a company's size or other characteristics. In this way, investors are guaranteed a certain level of regulatory protection, and investment opportunities can compete for capital on a level playing field, where potential rewards are commensurate with risks assumed. When warranted, however, the SEC often has imposed lessened compliance burdens on companies with different characteristics, including size, when the costs of compliance with higher standards were not justified by the direct benefits to be gained or when offsetting indirect benefits could be obtained. The SEC will continue to consider compliance costs and offsetting benefits in this way in the future. These judgments must be made on a case-by-case basis with respect to each regulatory initiative. The work of the Advisory Committee is expected to provide some recommendations that are consistent with this approach.