Description of document:	Written responses and letters from the Securities and Exchange Commission (SEC) to a Congressional Committee, 2012-2013
Requested date:	20-April-2013
Released date:	01-May-2014
Posted date:	19-May-2014
Source of document:	FOIA Request Securities and Exchange Commission 100 F Street NE Mail Stop 2736 Washington, DC 20549 Fax: 202-772-9337 Online FOIA Request Form

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2736

Office of FOIA Services

May 1, 2014

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 13-06448-FOIA

This letter is our final response to your request dated April 20, 2013, and received in this office on April 22, 2013, for a copy of each written response or letter from the SEC to a Congressional Committee in 2012 and 2013.

In an email dated September 25, 2013, we advised you that the SEC maintains its Congressional correspondence records by Congress Member rather than Congressional Committee. We also informed you that when the SEC corresponds with a Congressional Committee, the communication is generally addressed to the Committee Chairperson. Accordingly, we asked you to provide us with a list of the Congressional Committees that are of particular interest to you, and/or the name of the Chairperson for the respective Committees.

In an email dated September 25, 2013, you limited the scope of your request to only include correspondence with the following eight Members of Congress:

Timothy Johnson
Michael D. Crapo
Jeb Hensarling
Spencer Bachus III
Maxine Waters
E. Scott Garrett
Jon Tester
Michael Johanns

Access is granted, in part, to the enclosed 266 pages of records. SEC staff names and other similar types of information are being withheld, since the release of such information would constitute a clearly unwarranted invasion of personal privacy under 5 U.S.C. 552(b)(6), 17 CFR § 200.80(b)(6). Moreover, public identification of SEC staff could conceivably subject them to harassment and annoyance in the conduct of their official duties and in their private lives.

Additionally, two of the enclosed pages are being withheld in their entirety pursuant to the deliberative process privilege of Exemption 5. Under the deliberative process privilege, withholding these pages will encourage open, frank discussions on matters of policy between subordinates and superiors; protect against premature disclosure of proposed policies before they are finally adopted; and/or protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for the Commission's action.

I am the deciding official with regard to this adverse determination. You have the right to appeal my decision to our General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(d)(5) and (6). Your appeal must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

Send your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2736, Washington, D.C. 20549, or deliver it to Room 1120 at that address. Also, send a copy to the SEC Office of the General Counsel, Mail Stop 9612, or deliver it to Room 1120 at the Station Place address.

There are no billable fees for the processing of this request. If you have any questions, please contact Denise R. Moody of my staff at moodyd@sec.gov or (202) 551-8355. You may also contact me at foiapa@sec.gov or (202) 551-7900.

Sincerely,

Ray J. McInerney

Ray J. McInerney
FOIA Branch Chief

Enclosures

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

THE CHAIRMAN

February 10, 2012

The Honorable Mike Johanns
United States Senate
404 Russell Senate Office Building
Washington, DC 20510

Dear Senator Johanns:

Thank you for your recent inquiry with respect to the Commission's consideration of alternatives to the May 2010 consolidated audit trail ("CAT") rule proposal.

Currently, approximately 10 billion shares trade hands every day in the U.S. equity markets, the product of some 34 million trades and an even greater number of orders. Despite this huge volume of daily trades and orders, there is not a single automated system to collect and normalize data across the various trading venues, products, and market participants. Instead of a comprehensive audit trail available to securities regulators, each registered securities exchange and the Financial Industry Regulatory Authority ("FINRA") (collectively, the "SROs") maintains its own limited audit trail.

As a result, it has become increasingly challenging for regulators to oversee the U.S. securities markets. Regulatory authorities encounter difficulties and delays in obtaining and reconciling even the limited order and execution data that is available, thereby hindering the conduct of market surveillance, investigations and enforcement activities, and market reconstructions and analyses. For example, regulators reconstructing an unusual event, such as the May 6 market disruption, must obtain and merge a large volume of disparate data from a number of different markets. Investigations of suspicious activity face similar problems. The data from SRO audit trails will reveal the broker who traded a security, but not the identity of the broker's customer, as the SROs do not collect such information. To obtain such individual trader information from broker-dealers through the existing Electronic Blue Sheets system, the Commission must make a series of requests that can take days or even weeks to fulfill. The CAT proposal was designed to address these deficiencies to permit regulators to ultimately track trade data across multiple markets, securities, and participants simultaneously.

As you know, the Commission sought extensive public comments in connection with the CAT proposal. Among other things, the proposal sought commenters' views on the costs and benefits of all aspects of the proposal, as well as comment on whether alternative approaches to implementing the CAT would provide greater benefits or involve fewer costs. In response, dozens of commenters – including SROs, trading venues, broker-dealers, technology providers, and trade-industry groups – submitted their views on a variety of aspects of the release. The Commission continues to receive and consider comments regarding the proposal. Commissioners and staff also have met with a large number of interested parties over the past year and a half.

You have asked about the role of our staff in the Division of Risk, Strategy and Financial Innovation ("RSFI") regarding the CAT rulemaking. Since the proposal, RSFI staff, as part of a cross-agency staff working group that includes staff from our Division of Trading and Markets, have been considering and evaluating the comments, with a particular focus on the alternative approaches proposed by commenters on significant issues. For example, the comments address such issues as the costs and benefits of the proposal, alternative deadlines for when data must be submitted, what customer and other trade and order information items must be reported to the CAT, how such information should be collected and handled, and how existing audit trails could be used to help build or inform the CAT. The staff's analysis is focused on a number of variables, including reporting deadlines, the mechanics of tracking orders, and the process by which SROs would execute the next stage of the CAT implementation process. Our economic analysis will address the effect on efficiency, competition and capital formation of an adopted rule, and both it and the bases for the Commission's decisions will be published with any adopting release that is issued.

As you may know, the adoption of a final rule to establish the CAT would complete only the first step in a lengthy implementation process that would involve further careful consideration of the costs and benefits of the chosen approach as it is better defined. Specifically, if a rule is adopted, it is anticipated that the SROs ultimately would be required to produce a joint national market system plan, consistent with broad parameters approved by the Commission, to create, implement, and maintain the CAT. Any such plan would be subject to public comment, and also would be subject to the review and, if warranted, approval of the Commission following such comment. The Commission and staff would carefully consider comments pertaining to the anticipated costs and benefits of any detailed plan developed by the SROs pursuant to any final rule adopted by the Commission.

With respect to the issue of real-time reporting, commenters have provided varied perspectives on the magnitude, nature, and source of the cost of such reporting. Issues identified include concerns about the accuracy of real-time data, concerns about significant up-front costs associated with a conversion to real-time reporting, and concerns about the ongoing costs of monitoring the real-time connection and retransmitting data when the connection is lost. Based upon this input, I personally believe that very substantial benefits can be achieved from a CAT that does not require real-time reporting. The staff is carefully considering the need for real-time reporting at this time and is mindful that the benefits of a real-time system must be compared to the potentially significant cost of creating and maintaining one.

Thank you for your interest in the CAT proposal. If you have any questions or would like to further discuss this letter, please feel free to contact me at (202) 551-2100, or have your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted]

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

August 13, 2012

The Honorable Mike Johanns
United States Senate
404 Russell Senate Office Building
Washington, DC 20510

Dear Senator Johanns:

Thank you for your July 25, 2012 letter regarding the Commission's continuing review of the regulation of money market funds.

I agree with you that money market funds play a vital role for state and local governments and other types of investors. Indeed, it is because money market funds play such a vital role that I believe it is important to consider further reforms. It was less than four years ago that the bankruptcy of Lehman Brothers, Inc. touched off a run on money market funds, with \$310 billion withdrawn from prime money market funds in a single week. The result was the freezing of the short-term credit markets on which hundreds of companies, financial institutions, and state and local governments rely for short-term funding. A financial catastrophe and great harm to investors were prevented only by the unprecedented intervention in the markets by the federal government, which included the Treasury Department's temporary money market fund guarantee program.

The Commission's 2010 reforms, while important, were not designed to prevent another run if a money market fund were to experience similar losses. The 2010 reforms did not address the structural aspects of money market funds that make them susceptible to runs, which we deferred for later consideration. As you note in your letter, as a result of those reforms, money market funds are better able to weather changes in interest rates and increases in redemptions. They are not, however, better able to withstand credit losses in the value of their portfolio securities such as the one that started the run in 2008.

Last summer, there were substantial redemptions from prime money market funds as a result of concerns about their large Eurozone bank exposures, even though there were no losses. If there had been credit losses, the funds may not have been able to withstand the cumulative effect of substantial redemptions and loss in value. In addition, last fall, after a rating agency downgraded a Norwegian bank, two fund sponsors bought holdings from that bank out of their funds so that the funds themselves would not be downgraded and become ineligible investments for many institutional investors. As I have noted recently in testimony to the Senate Banking Committee, recurrent sponsor support has been a feature undergirding money market fund stability throughout their history and often is the only way to eliminate problematic or devalued holdings in a money market fund portfolio. As we saw in 2008, however, that sponsor support may not always be available, particularly in a crisis.

The Honorable Mike Johanns
Page

Another run on money market funds such as the one that occurred in 2008 could irreparably damage investor confidence in money market funds and, potentially, the short-term funding markets, making it more difficult and costly for state and local governments to raise funding. Moreover, another run on money market funds may be impossible to stop before it inflicts substantial damage because the Treasury Department is now statutorily prohibited from using its authority to guarantee money market fund shares as it did during the financial crisis. I do want to assure you that I am taking a very deliberative approach to further money market fund reforms. I have directed the staff to carefully explore all of the options available to us before moving forward. The Commission will take into full consideration the important role money market funds play in municipal economies, including the immediate effects any reforms may have on state and local governments' ability to invest cash and to raise funding, and the longer-term effects that reforms could have by making money market funds more stable sources of funding and less susceptible to runs.

Again, thank you for taking the opportunity to share your views with the Commission. Please call me at (202) 551-2100, or have your staff call Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) for further assistance.

Sincerely,

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

July 9, 2012

The Honorable Mike Johanns
United States Senate
404 Russell Senate Office Building
Washington, DC 20510

Dear Senator Johanns:

Thank you for your June 19, 2012 letter concerning the premium capture cash reserve account and the definition of "qualified residential mortgage" in the proposed rules that would establish risk retention requirements under section 941(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The notice of proposed rulemaking includes many requests for comment on the proposal, and all the agencies specifically requested the public's input on the exception for qualified residential mortgages from any credit risk retention requirement and whether there are alternative methodologies that would better achieve the purpose of the premium capture cash reserve account, which is intended to prevent sponsors from structuring around the minimum five percent risk retention requirement.

The comment period on the proposed rules formally ended August 1, 2011, and the Commission and staff continue to work cooperatively with the other agencies to develop final regulations that would effectively implement all aspects of section 941(b) in a manner consistent with the language and purposes of that section. We will carefully consider your comments as we move forward with this interagency rulemaking process.

Again, thank you for your input. Your comments will be included in the public comment file for the rulemaking, which is available on the Commission's website. Please do not hesitate to contact me, or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] if we can be of further assistance.

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

July 9, 2012

The Honorable Jon Tester
United States Senate
724 Hart Senate Office Building
Washington, DC 20510

Dear Senator Tester:

Thank you for your June 19, 2012 letter concerning the premium capture cash reserve account and the definition of "qualified residential mortgage" in the proposed rules that would establish risk retention requirements under section 941(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The notice of proposed rulemaking includes many requests for comment on the proposal, and all the agencies specifically requested the public's input on the exception for qualified residential mortgages from any credit risk retention requirement and whether there are alternative methodologies that would better achieve the purpose of the premium capture cash reserve account, which is intended to prevent sponsors from structuring around the minimum five percent risk retention requirement.

The comment period on the proposed rules formally ended August 1, 2011, and the Commission and staff continue to work cooperatively with the other agencies to develop final regulations that would effectively implement all aspects of section 941(b) in a manner consistent with the language and purposes of that section. We will carefully consider your comments as we move forward with this interagency rulemaking process.

Again, thank you for your input. Your comments will be included in the public comment file for the rulemaking, which is available on the Commission's website. Please do not hesitate to contact me, or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if we can be of further assistance.

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

April 9, 2012

The Honorable Maxine Waters
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515

Dear Representative Waters:

Thank you for your March 8, 2012 letter regarding the implementation of Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. In your letter, you express support for Section 953(b) and ask the Commission to prioritize this rulemaking.

The staff is actively working to develop recommendations for the Commission concerning the implementation of Section 953(b). The staff has met with numerous interested groups and has received a great deal of information. As evidenced in the public comment file on our website, a variety of stakeholders have submitted comment letters in connection with this rulemaking, reflecting a wide range of views concerning the implementation of the provision and the potential costs and benefits associated with the requirements. The staff carefully reviews and analyzes all comments as it develops recommendations for the Commission. In this regard, we appreciate your input on the importance to investors of the information called for by Section 953(b) and on the ability of companies to provide the disclosure and will add your letter to the public comment file on our website.

A number of commentators have mentioned that some companies already calculate and disclose information similar to the disclosure called for by Section 953(b). The staff has reviewed the disclosure about employee compensation and internal pay disparity that has been provided by registrants in their filings with us, including those referenced in your letter and others that have been highlighted for providing such disclosure. While I understand that some companies are providing a form of pay equity disclosure, I also understand that the disclosure provided would not comply with Section 953(b). In particular, the companies providing the disclosure have not calculated the median pay of all their employees using the definition of compensation that is required by Section 953(b) — namely, "total compensation" as defined in Item 402(c)(2)(x) of Regulation S-K. Instead, the few companies that have disclosed median employee pay have used cash compensation (such as salary, or salary and cash bonus), which is only one of several components of "total compensation" under Item 402(c)(2)(x). As you are aware, "total compensation" under Item 402(c)(2)(x) is a highly specialized definition of compensation that is not used for accounting purposes or tax purposes. Under our existing rules, a registrant must compile and disclose "total compensation" amounts for five executive officers (including its chief executive officer), but it is not required to determine the "total compensation" figure for each employee in its workforce.

Thank you for taking the time to share your thoughts on the implementation of Section 953(b). We will consider your comments as we move forward with the implementation of the provision. Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] if you have any additional concerns or comments.

Sincerely,

Mary L. Schapiro
Chairman

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

OFFICE OF
FINANCIAL MANAGEMENT

January 10, 2013

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
B301C Rayburn House Office Building
Washington, DC 20515

Dear Representative Waters:

In accordance with Section 991 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Securities and Exchange Commission is required to notify Congress within 10 calendar days of the obligation of funds from the Commission's Reserve Fund. This letter is to notify you of two such obligations.

On December 31, 2012, the SEC obligated $9,020,997.60 from the Reserve Fund for the procurement of a suite of hardware, associated software, and labor to support the stand-up of an improved Electronic Data Gathering Analysis and Retrieval (EDGAR) system at the Commission's new Primary Data Center. The infrastructure procured will be built out to mirror the current production system and make improvements to eliminate single points of potential failure, increase redundancy, and support server consolidation. The build out also will include improvements to support increased storage for the EDGAR database and filing documents, along with increased capacity to support anticipated growth in the number of filings submitted through EDGAR. These improvements will provide a good foundation of support for a modernized EDGAR system and provide improved safeguards for continuous support during a disaster.

On January 9, 2013, the SEC obligated $126,367 from the Reserve Fund to complete the first phase delivery of the Enterprise Data Warehouse (EDW) – EDGAR Modernization initiative. This project will create the infrastructure for the SEC to combine together various streams of currently siloed data to help the public gain easier access to more usable market data. The procurement and installation of the EDW is a critical first phase of the larger EDGAR Modernization Initiative. Currently, the majority of the filings the SEC receives are free text files, which are difficult to analyze in aggregate. With the EDW project, investors and other members of the public will be able to more easily search, find, and analyze the public filings submitted to the SEC. The EDW will allow SEC to link the EDGAR filing data with data that it receives from other internal and external sources in order to present a more complete picture of the companies. In addition, SEC investigators will be able to leverage the EDW to better analyze EDGAR filing data, in conjunction with other SEC data, to find outliers that could be investigated further.

We will continue to notify you as further obligations occur. Please do not hesitate to contact me at (b)(6) or have your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) with any additional questions or comments.

Sincerely,

Kenneth A. Johnson
Chief Financial Officer

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

THE CHAIRMAN

December 3, 2012

The Honorable Maxine Waters
Ranking Member
Subcommittee on Capital Markets and
Government Sponsored Enterprises
Committee on Financial Services
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515-0535

Dear Representative Waters:

Thank you for your October 16, 2012 letter concerning the implementation of Section 201 of the Jumpstart Our Business Startups Act. In the letter, you urge the Commission to consider defining specific, additional requirements for verifying accredited investor status in the proposed rule amendments to Rule 506 of Regulation D. You also urge the Commission to consider amending the definition of accredited investor and to implement Section 926 of the Dodd-Frank Wall Street Reform and Consumer Protection Act before adopting the proposed rule amendments. You ask the Commission to consider adopting standards for the reporting of performance and fees by private funds and to enhance the economic analysis of the proposed rule amendments.

The Commission has received a great deal of public comment on this rule proposal. The staff is working to develop recommendations for the Commission with regard to how to move forward with implementation of Section 201, and your comments will be helpful in this regard. Your letter has been added to the public comment file.

Again, thank you for your letter. Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any additional concerns or comments.

Sincerely,

Mary L. Schapiro
Chairman

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

March 30, 2012

The Honorable Maxine Waters
United States House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515

Dear Representative Waters:

Thank you for your February 15, 2012 letter to the Commission regarding its rulemaking to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the provision requiring the Commission to issue rules requiring the disclosure of payments by resource extraction issuers.

As you know, the Commission proposed new rules in December 2010 that would implement the requirements of Section 1504 and, after careful consideration, subsequently extended the original comment period on this proposal of the Dodd-Frank Act to March 2, 2011. The Commission has requested comment on a variety of significant aspects of the proposed rule. I understand that the Commission has received over 4000 comment letters, including form letters, in response to the proposal and the staff has reviewed those comments. Your feedback on the rule proposal will be helpful to the staff in developing its recommendations and your letter has been included in the public comment file.

Thank you again for your input. Please do not hesitate to have a member of your staff contact me at (b)(6) if I can be of further assistance.

Sincerely,

Eric J. Spitler
Director

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

July 9, 2012

The Honorable Maxine Waters
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515

Dear Representative Waters:

Thank you for your June 22, 2012 letter regarding the status of the Commission's rulemaking to implement Sections 1502 and 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I am responding on behalf of Chairman Schapiro who is recused from the Section 1504 rulemaking. As you know, Sections 1502 and 1504 require the Commission to issue rules regarding the disclosure of information about conflict minerals from the Democratic Republic of the Congo ("DRC") and adjoining countries, and payments made by resource extraction issuers to governments, respectively. In your letter, you note that final rules regarding these provisions have not yet been adopted and you express concern that conflict minerals and non-transparent payments for resource extraction weigh on developing nations' growth and are a risk to investors and the public. You request that the Commission schedule a vote on final rules to implement Sections 1502 and 1504 by July 1, 2012, or provide an explanation for the delay and a definitive date for a scheduled vote on the provisions.

As you know, the Commission proposed new rules in December 2010 that would implement the requirements of Sections 1502 and 1504 and, at the request of a wide range of commentators, subsequently extended the original comment period on these proposals. The Commission requested comment on a variety of significant aspects of the proposed rules. Additionally, the Commission hosted a roundtable discussion regarding the Congo conflict minerals provision, which provided a forum for various stakeholders to exchange views and provide input on issues related to that rulemaking. In connection with the roundtable, the Commission reopened the comment period.

The Commission has received a great deal of public comment on both rule proposals and is committed to adopting final rules consistent with the statutory provisions. The staff continues to work actively on developing final recommendations for the Commission.

We understand your concern with regard to the timing of the Commission's issuance of final rules and the importance of adopting them as soon as possible. On July 2, 2012, the Commission issued a notice indicating that it will consider whether to adopt rules regarding disclosure and reporting obligations to implement the requirements of Sections 1502 and 1504 at an open meeting on August 22, 2012.

Please do not hesitate to have a member of your staff contact me at (b)(6) if you have any additional concerns or comments.

Sincerely,

Timothy B. Henseler
Acting Director

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

THE CHAIR

July 22, 2013

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
B301C Rayburn House Office Building
Washington, DC 20515-6050

Dear Ranking Member Waters:

In accordance with Section 101(h) of the Sarbanes-Oxley Act of 2002, I am transmitting a copy of the 2012 Annual Report of the Public Company Accounting Oversight Board.

Sincerely,

Mary Jo White
Chair

Enclosure

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

THE CHAIR

July 22, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515-6050

Dear Chairman Hensarling:

In accordance with Section 101(h) of the Sarbanes-Oxley Act of 2002, I am transmitting a copy of the 2012 Annual Report of the Public Company Accounting Oversight Board.

Sincerely,

Mary Jo White
Chair

Enclosure

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

THE CHAIR

July 22, 2013

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510-6075

Dear Chairman Johnson:

In accordance with Section 101(h) of the Sarbanes-Oxley Act of 2002, I am transmitting a copy of the 2012 Annual Report of the Public Company Accounting Oversight Board.

Sincerely,

Mary Jo White
Chair

Enclosure

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

THE CHAIR

July 22, 2013

The Honorable Mike Crapo
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510-6075

Dear Ranking Member Crapo:

In accordance with Section 101(h) of the Sarbanes-Oxley Act of 2002, I am transmitting a copy of the 2012 Annual Report of the Public Company Accounting Oversight Board.

Sincerely,

Mary Jo White
Chair

Enclosure

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

THE CHAIRMAN

May 16, 2012

The Honorable Maxine Waters
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, DC 20515

Dear Representative Waters:

Thank you for your letter dated April 30, 2012 regarding the proposed implementation of Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly referred to as the "Volcker Rule." As you know, the Commission issued the proposal jointly with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to implement Section 619. Since your letter provides views on the proposed regulations, I have asked Commission staff to include your letter in the public comment file for this proposal.

At this time, the Commission and its staff are closely considering the large number of detailed comment letters that we have received on the proposal as we continue to coordinate with our fellow regulators to further refine the proposed rule. We are committed to working expeditiously through the remainder of the rulemaking process in light of the desire for greater market certainty, the complexity of the issues presented by Section 619, and the need to fully consider all of the comment letters the Commission has received on the proposed rule.

Thank you again for your letter. Please call me at (202) 551-2100, or have your staff call Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) (b)(6) if you have any questions or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

December 14, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515-6050

Re: Annual Report on Nationally Recognized Statistical Rating Organizations

Dear Chairman Bachus:

In accordance with Section 6 of the Credit Rating Agency Reform Act of 2006, I am transmitting a copy of the Annual Report on Nationally Recognized Statistical Rating Organizations.

Sincerely,

Mary L. Schapiro
Chairman

Enclosure

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

OFFICE OF
MINORITY AND WOMEN
INCLUSION

April 10, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

Section 342(e) of the Dodd-Frank Wall Street Reform and Recovery Act of 2010 (Public Law 111-203) requires an annual report regarding activities by the Commission and its Office of Minority and Women Inclusion relating to diversity in management, employment, and business activities. Enclosed please find a copy of the report prepared by the staff of the Commission.

Sincerely,

Pamela A. Gibbs
Director

Enclosure

OFFICE OF MINORITY AND WOMEN INCLUSION

ANNUAL REPORT

**As Required by Section 342(e) of the
Dodd-Frank Wall Street Reform and Recovery Act of 2010**

This is a report prepared by the Staff of the Office of Minority and Women Inclusion of the U.S. Securities and Exchange Commission. The Commission has expressed no view regarding the analysis, findings, or conclusions contained herein.

April 10, 2012

I. Introduction

The Office of Minority and Women Inclusion ("OMWI") of the U.S. Securities and Exchange Commission (the "SEC" or the "Commission") submits this report pursuant to Section 342(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act").

Section 342(e) mandates the submission by OMWI to Congress of an annual report that includes the following:

1. a statement of the total amounts paid to contractors during the reporting period;
2. the percentage of the amounts paid to contractors that were paid to minority-owned and women-owned businesses;
3. the successes achieved and challenges faced by the agency in operating minority and women outreach programs;
4. the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses; and,
5. any other information, findings, conclusions, and recommendations for legislative or agency action, as the OMWI Director determines appropriate.[1]

Unless otherwise noted, this report covers Section 342-related activities at the SEC from the establishment of OMWI in July 2011 through the fiscal year ended September 30, 2011.

II. Establishment of OMWI at the SEC

Section 342 of the Dodd-Frank Act ("Section 342") requires the SEC to establish an Office of Minority and Women Inclusion to be responsible for "all matters of the agency relating to diversity in management, employment, and business activities."[2] The SEC formally established its Office of Minority and Women Inclusion in July 2011, when the House and Senate Appropriations Committees approved the SEC's reprogramming request to create the office. The SEC began the hiring process for a permanent OMWI Director soon thereafter and announced the selection of the permanent OMWI Director in December 2011. The permanent OMWI Director officially joined the office in January 2012.

Among many duties, the OMWI Director is responsible for developing standards for equal employment opportunity and diversity of the workforce and senior management of the SEC, the increased participation of minority-owned and women-owned businesses in the SEC's programs and contracts, and assessing the diversity policies and practices of entities regulated by

[1] Section 342(e).

[2] Section 342(a)(1)(A).

the SEC.[3] The OMWI Director also is required to advise the Chairman of the Commission on the impact of the SEC's policies and regulations on minority-owned and women-owned businesses.[4]

III. Implementation of Section 342

A. Contracting With Minority-Owned and Women-Owned Businesses

Section 342(e)(1) and (2) requires the SEC to report the total amount paid to contractors during the reporting period, as well as the amounts and related percentages paid to minority-owned and women-owned businesses. During FY 2011, the SEC awarded $228 million to contractors. Of this $228 million, the SEC awarded $38.38 million (16.8%) to minority-owned businesses and $15.69 million (6.9%) to women-owned businesses. This represents an increase in dollars paid to minority-and women-owned businesses when compared to FY 2010 and FY 2009 data. In 2010, the SEC awarded a total of $223 million dollars to contractors; of that, 10% was paid to minority-owned businesses and 12% was to women-owned businesses. This represented an increase from FY 2009.[5]

Section 342(e)(3) also requires the SEC to report the successes achieved and challenges faced in operating minority and women outreach programs. Since the establishment of the OMWI office in July 2011, the SEC has focused on proactively increasing the awareness of the SEC's contracting needs within the minority-owned and women-owned business communities.

Our successes in operating minority and women outreach programs included the following:

- In FY 2011, the SEC exceeded all U.S. Small Business Administration-defined socioeconomic goals for the number of contracts awarded to small businesses, with the exception of the 3% goal for those businesses located in Historically Underutilized Business Zones.
- OMWI sponsored and attended conferences and participated in business matchmaking sessions to increase the interaction between minority and women suppliers and the SEC, including the national conferences for the following organizations: the Minority Corporate Counsel Association, the National Association of Minority and Women-Owned Law Firms, the United States Hispanic Chamber of Commerce, the National Minority Supplier Development Council, and FraserNet Power Networking.

[3] Section 342(b)(2)(A)-(C).

[4] Section 342(b)(3).

[5] In 2009, the SEC awarded a total of $151 million to contractors; $14 million to minority-owned businesses and $10 million to women-owned businesses.

- OMWI created a dedicated email address, telephone line, and brochure to facilitate communication and outreach to the minority-owned and women-owned business communities. As a result, many minority-owned and women-owned businesses are contacting OMWI directly to learn more about the SEC's contracting needs.

- OMWI hosts a monthly "Vendor Outreach Day" at the SEC for small, minority-owned, and women-owned businesses to learn about the SEC's contracting needs and to present their services to OMWI's Supplier Diversity Officer and other key SEC personnel. Since August 2011, OMWI has seen over fifty (50) vendors.

  OMWI is actively involved in the agency's acquisition review process to advocate for the inclusion of a diversity component in the competitive process.

Our challenges in operating minority and women outreach programs included the following:

- In FY 2011, OMWI had limited staff as the office was newly created and was unable to provide in-depth technical assistance to minority-owned and women-owned businesses. In FY 2012, we are in the process of hiring more staff and will have the resources to provide businesses seeking contracts with the SEC with a comprehensive overview of the contracting process from the proposal phase to the contract award phase, including an overview of the process of bidding on a requirement.

B. Employment of Minorities and Women at the SEC

Section 342(e)(4) requires the SEC to report on challenges it may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses.[6] As of the end of FY 2011, there were 3,826 employees in the SEC's workforce, of which 1,204 employees (31.5%) were minorities and 1,839 employees (48.1%) were women. Of the 1,204 minority employees and 1,839 women employees, respectively, 440 minorities (36.5%) and 843 women (45.8%) were employed in the major SEC occupations of attorneys, accountants, and compliance examiners. Of the 1,129 supervisory and management positions, a total of 178 minorities (15.8%) and 332 women (29.4%) were in these positions. The SEC is taking proactive steps to increase the recruitment of underrepresented demographic groups at the agency in the major occupations of attorneys, accountants, and compliance examiners. In addition, the SEC continues to evaluate ways to address the underrepresentation of minorities and women in supervisory and management positions.

The SEC is working toward a unified agency approach to recruitment and hiring that incorporates a comprehensive understanding of the value of workforce diversity. To increase awareness of the agency's workforce diversity challenges, OMWI began meeting with the

[6] Our challenges in contracting with qualified minority-owned and women-owned businesses are discussed under Section III.A of this report.

leadership and hiring managers of each division and office to review employee demographic data and to discuss methods to enhance the SEC's recruitment and hiring efforts to include a wider pool of diverse applicants. The OMWI Director continues to convene these meetings in an ongoing effort to improve the agency's workforce diversity.

OMWI actively partnered with the SEC's Office of Human Resources to enhance the SEC's diversity recruiting efforts, particularly for the recruitment of attorneys, accountants, managers, and senior officers. In addition, OMWI collaborated with the Office of Human Resources to initiate the development of a system to track candidates that submitted resumes to the agency or agency representatives at outreach events and through referrals.

OMWI also worked with the SEC's Office of Equal Employment Opportunity to host regular meetings in Washington D.C. with the local chapter leaders of many national minority professional organizations, including the Association of Latino Professionals in Finance and Accounting, the National Black MBA Association, and the Hispanic National Bar Association, to disseminate information about SEC employment opportunities to their members and networks. To increase the reach of our recruitment and hiring efforts, OMWI will continue to strategically leverage and expand these partnerships and alliances to include more organizations and their local chapter affiliates in our regional office locations. It is too early to assess the impact of these partnerships and alliances as most were initiated during FY 2011.

Under the leadership of the recently appointed permanent OMWI Director, the SEC is developing an agency-wide diversity and inclusion strategic plan that incorporates the requirements of Section 342, the August 2011White House Diversity and Inclusion Executive Order, and the Government-Wide Diversity and Inclusion Strategic Plan. This strategic plan will focus on the recruitment, hiring, mentoring, career development, promotion, and retention of diverse employees. Moreover, the strategic plan will include standards that will allow the SEC to self-assess its ongoing diversity and inclusion efforts. The plan is expected to be completed by May 1, 2012.

C. Other Information, Findings, Conclusions, and Recommendations

Section 342(e)(5) requires the SEC to report any other information, findings, conclusions, and recommendations for legislative or agency action, as the OMWI Director determines appropriate. Beginning in early 2011, the SEC staff, along with the directors and representatives from the other OMWI agencies,[7] participated in interagency meetings to develop comprehensive approaches to implementing the requirements of Section 342. These meetings were also used to draft proposed language for the written statement on the fair inclusion of women and minorities

[7] Section 342(g)(1).

in contracting activities[8] and to discuss appropriate standards for assessing the diversity policies and practices of the entities regulated by each agency.[9] Given that several OMWI agencies may concurrently regulate certain entities, a primary focus of the interagency group was to avoid the establishment of conflicting diversity standards upon these regulated entities. In early 2012, the OMWI directors held a joint roundtable with financial industry groups and trade organizations to foster a meaningful, informed dialogue regarding the development of standards for assessing the diversity policies and practices of regulated entities. The OMWI directors continue to convene these interagency meetings and roundtables on an as-needed basis.

In addition, several trade groups, regulated entities, and minority professional organizations have requested informal meetings with our OMWI Director. Our OMWI Director meets with representatives of these groups and, to the extent necessary, facilitates their introduction to the other OMWI directors.

IV. For Further Information

Should you require any further information regarding this report, please contact Pamela Gibbs, Director, Office of Minority and Women Inclusion, at (202) 551-6046 or Julie Davis, Deputy Director, Office of Legislative and Intergovernmental Affairs, at (202) 551-2233.

[8] Section 342(c)(2).

[9] Section 342(b)(2)(C).

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

THE CHAIRMAN

November 15, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

I am pleased to inform you that the FY 2012 Agency Financial Report (AFR) for the U.S. Securities and Exchange Commission is now available at http://www.sec.gov/about/secafr2012.shtml.

The FY 2012 AFR contains a variety of useful information about the SEC and its activities in FY 2012, including:

- Management's Discussion and Analysis, including a discussion of the year in review;
- The financial statements and notes for the SEC as a whole, as well as for the Investor Protection Fund as required under Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and
- The results of the Government Accountability Office's (GAO) audit of the SEC's financial statements and internal controls over financial reporting.

The report also discusses GAO's finding that the SEC maintained, in all material respects, effective internal controls over financial reporting in FY 2012, free of material weaknesses, for the second year in a row. Although the SEC will continue its focus on strengthening financial controls in the coming months, I am pleased that our efforts over the past year have yielded significant results.

Thank you for your continued support for the SEC and its mission. If you have any questions, please feel free to contact me at (202) 551-2100, or have your staff contact Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

September 26, 2012

The Honorable Spencer Bachus
U.S. House of Representatives
2246 Rayburn House Office Building
Washington, DC 20515

Dear Representative Bachus:

Thank you for your August 10, 2012 letter regarding the implementation of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Congo Conflict Minerals provision") as it relates to the impact on American businesses, and small businesses in particular.

In your letter, you expressed concern relating to the estimated costs of implementation, especially as those costs relate to small businesses. Based on these concerns, you urged the Commission to conduct a Small Business Regulatory Enforcement Fairness Act ("SBREFA") review and to adopt a safe harbor that allows public companies to exercise reasonable due diligence and provide measures to reduce their potential liability. You further indicated that the scope of the Congo Conflict Minerals provision and its reporting requirements should not include recycled materials or issuers that "contract to manufacture."

On August 22, 2012, the Commission adopted a new rule and form to implement the Congo Conflict Minerals provision. (Conflict Minerals Release No. 34-67716 (Aug. 21, 2012) available at http://www.sec.gov/rules/final/2012/34-67716.pdf). We received a great deal of public comment on the rule proposal, which informed the Commission in its consideration of the final rule. We believe the new rule effectuates the intent of Congress to require companies, including smaller reporting companies, to provide the mandated disclosure. In developing the final rule, however, we modified the proposed rule and tried to reduce the burden of compliance, while remaining faithful to the language and intent of the Congo Conflict Minerals provision that Congress adopted. For example, the final rule provides a temporary transition period of two years for all issuers, and four years for smaller reporting companies, during which an issuer may describe a product as "DRC conflict undeterminable" and is not required to obtain an audit of its conflict minerals report with respect to such products. In addition, the final rule provides alternative treatment for conflict minerals from recycled or scrap sources. The final rule requires an issuer that determines after a reasonable country of origin inquiry that its conflict minerals came from recycled or scrap sources to file a Form SD that discloses its determination and briefly describes its inquiry and the results of that inquiry, instead of requiring the issuer to provide a conflict minerals report and audit, as was proposed.

Since Congress adopted the Conflict Minerals Statutory Provision in July 2010, we have sought comment on our implementation of the provision, including our proposal, and have ensured that commentators had opportunities to provide their input, both before and after the rules were proposed. We extended the comment period for the rule proposal and convened an October 2011 roundtable at the request of commentators. We continued to receive comment letters through August 2012, all of which we considered. Some commentators provided responses to other commentators, particularly on the economic analysis. This robust, public, and interactive debate allowed us to more fully consider how to develop our final rule. Additionally, we considered and analyzed the numerous comments received regarding the costs and complexities of the statute and proposed rules, and have taken them into account in the final rule.

We understand the importance of adopting a final rule in a deliberate and careful manner and the importance of conducting a SBREFA review. We recognize that the rule will impose significant compliance costs on companies who use or supply conflict minerals and have determined that the rule is a "major" rule under SBREFA. As you know, for purposes of the SBREFA, a rule is "major" if it has resulted, or is likely to result, in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers or individual industries; or significant adverse effects on competition, investment, or innovation. As discussed below, we believe the new rule and form are likely to have an annual effect on the economy well in excess of $100 million.

As explained in the final rule release, we estimate that approximately 5,994 reporting issuers would be subject to some reporting requirement by the final rule. Some of the anticipated costs of the final rule, as estimated by commentators, include those associated with an issuer exercising due diligence on the source and chain of custody of its conflict minerals, obtaining an audit of its conflict minerals report, and modifying its organizational systems to capture and report on conflict minerals information. After analyzing the comments and taking into account additional data and information provided by the commentators, the final rule release explains that we believe it is likely that the initial cost of compliance with the new rule and form will be approximately $3 billion to $4 billion, while the annual cost of ongoing compliance will be in the range of $207 million to $609 million.[1]

We believe that the final rule will affect small entities with necessary conflict minerals, and we were mindful of compliance costs for small business in developing the final rule that implements the statute. In our initial Regulatory Flexibility Act ("RFA") analysis in the proposing release, we estimated that there were approximately 793 issuers for which conflict

[1] With respect to the $71 million cost figure in your letter, please note that was our initial estimate of only the total increase in paperwork burdens associated with the audit and due diligence requirements, as well as the cost of hiring professionals to help prepare the required disclosure as required under the Paperwork Reduction Act. This amount was based primarily on information that we obtained from various stakeholder groups prior to issuing the proposing release. We received additional information from various stakeholder groups subsequent to our proposal, which we evaluated and incorporated in making our cost estimates of the final rule.

minerals are necessary and that may be considered small entities. We derived our estimate of the number of affected small business reporting companies by searching our internal databases for issuers with total assets of less than $5 million in industries that our staff believed were more likely to include companies that manufacture or contract to manufacture products with necessary conflict minerals. As you may know, Exchange Act Rule 0-10(a) defines an issuer to be a "small business" or "small organization" for purposes of the RFA if it had total assets of $5 million or less on the last day of its most recent fiscal year.[2]

Some commentators indicated that we underestimated the number of small entities that would be impacted by the rule for purposes of our RFA analysis, asserting that we should consider small entities that are not directly subject to the requirements of the final rule for purposes of the RFA. Under the RFA, we are required to analyze the impact of the proposed rules on small entities that are directly subject to the requirements of the proposed rules.[3] Although, as we explained in the final rule release, other entities in an affected issuer's supply chain likely would be indirectly affected by the rules, the RFA does not call for an analysis of the effect on these companies.[4] Nonetheless, we did consider the indirect impact on these other companies as part of our economic analysis of the final rule and that impact is included in our approximately $3 billion to $4 billion initial cost of compliance determination and our $207 million to $609 million annual cost of ongoing compliance determination. We note that no commentator provided any other number of small entities or disagreed that 793 is the number that will be directly subject to the final rule, and we continue to estimate that there are approximately 793 small entities that file reports with us under Exchange Act Sections 13(a) and 15(d) and that will be directly subject to the final rule.

Thank you again for your input. Your letter has been included in the public comment file. Please do not hesitate to contact me or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) (b)(6) if you have any additional concerns or comments.

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

---

[2] 17 CFR 240.0-10(a).
[3] 5 U.S.C. 603(b).
[4] We note that the Small Business Administration's Office of Advocacy's guide for agencies performing a regulatory flexibility analysis of small entities states that courts have held that the RFA requires an analysis of impacts only on small entities directly subject to the requirements of a rule. See Small Business Administration's Office of Advocacy, A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act, "Direct versus indirect impact," pages 20-21 (June 2010), available at http://archive.sba.gov/advo/laws/rfaguide.pdf.

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

THE CHAIRMAN

April 11, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U. S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515-2201

Dear Chairman Bachus:

Enclosed is the Study on the Cross-Border Scope of the Private Right of Action Under Section 10(b) of the Securities Exchange Act of 1934 ("section 10(b)") mandated by section 929Y of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act"). Attached as well is a separate statement by Commissioner Luis A. Aguilar regarding the study.

The Dodd-Frank Act's requirement that the Commission study this issue emanated from a June 24, 2010 decision of the U.S. Supreme Court in Morrison v. National Australia Bank, 130 S.Ct. 2869 (2010). The enclosed study, which was prepared by the Commission staff, provides a comprehensive overview of the Morrison case, the underlying issues related to cross-border securities frauds, the views of public commenters on the issues presented by the Morrison case, the different approaches lower courts have taken since the Morrison decision was issued, and the various options that Congress may wish to consider to address issues raised by the case.

Speaking only for myself, I believe that the conduct and effects standard that the Commission and the Solicitor General recommended in the Morrison case, or the conduct and effects standard enacted in Dodd-Frank Section 929P(b) for Commission and Department of Justice actions, would provide better overall protection of investors than the transactional standard adopted in Morrison.

The staff and I are available to answer any questions you may have and would be pleased to work with you in developing any legislative solution. Please feel free to contact me at 202-551-2100 or have your staff contact Eric J. Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

Enclosures

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

THE CHAIRMAN

December 20, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Bachus:

As mandated by Section 961(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, I am submitting the Securities and Exchange Commission's report and certification of internal supervisory controls over the conduct of examinations of registered entities, enforcement investigations, and review of corporate financial securities filings.

If you have any questions or comments about the report or certification, please contact me at 202-551-2100, or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Elisse B. Walter
Chairman

Enclosure

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

AUG 3 2012

Division of Enforcement

Robert S Khuzami
Director
(202) 551-4894
(202) 772-9279 (fax)
khuzamir@sec.gov

The Honorable Spencer Bachus
Chairman
United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

Thank you for your August 9, 2012 letter, which concerns communications received by your Committee from Paul Zindell relating to the Commission's case against McGinn Smith & Co., Inc. ("McGinn Smith"), a broker-dealer based in Albany, New York. Given the subject matter of your letter, Chairman Schapiro has asked me to respond on her behalf.

The Commission filed its case against McGinn Smith and its principals, Timothy McGinn and David Smith, on April 20, 2010, in the U.S. District Court for the Northern District of New York. On that day, the Court granted the Commission's request for the appointment of a Receiver and a broad asset freeze over the assets of the broker-dealer and the defendants. The case has been aggressively litigated, with the Commission filing two additional emergency motions resulting in a finding of contempt, a broader asset freeze, and sanctions against defendants and others. The Receiver has gathered more than $12 million in assets and is seeking Court approval for an initial distribution.

In January 2012, criminal charges were filed against McGinn and Smith by the U.S. Attorney's Office for the Northern District of New York. The Court issued an order on March 26, 2012, staying the Commission's case.

The Commission staff handling this matter from our New York Regional Office has had a substantial amount of communications with Mr. Zindell since the case was filed in April 2010. In particular, in October 2010, Mr. Zindell provided the staff with information regarding a securities offering scheme being developed by McGinn. Mr. Zindell provided the staff with critical documents and with a sworn declaration that was filed with the Court and led to the Court's finding that McGinn was in contempt of a Court order.

As your letter notes, Mr. Zindell also has provided the staff with documents and information regarding the Integrated Alarm Services Group public offering. The staff has thoroughly reviewed the materials provided by Mr. Zindell. Consistent with our long-standing practice, the staff will contact Mr. Zindell if necessary to clarify the information he provided or to obtain additional relevant information.

Thank you again for your letter. Please do not hesitate to contact me at (b)(6) or have your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any additional questions.

Sincerely,

Robert S Khuzami
Director

THE CHAIRMAN

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

September 12, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2246 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus.

Thank you for your July 12, 2012 letter, which sets forth a series of questions relating to the events surrounding the Facebook opening cross on May 18, 2012. These include its effect on the marketplace, the Commission's review of NASDAQ's trading systems, and NASDAQ's proposal to accommodate certain members for losses suffered as a direct result of its systems issues.

Please find my response to your questions below. For completeness, I have repeated your questions before each relevant response. Additionally, while I have tried to address each of your questions, I am not able to specifically address certain of them because certain aspects of the Facebook IPO are under review by the Commission. This is done to protect the integrity of our investigations, prevent premature disclosures, and protect the privacy of parties associated with the investigations.

- When did NASDAQ first notify the SEC that it was experiencing problems with its dynamic opening cross trading system?
- Did the SEC staff offer any recommendations to NASDAQ when it learned of the system problems?

The Commission staff was first notified that NASDAQ was experiencing issues delivering the opening print in Facebook at approximately 11:15 a.m. on May 18. NASDAQ provided the notification. At approximately 11:34 a.m., NASDAQ informed Commission staff that Facebook was trading normally and that NASDAQ was investigating the problem with the opening print. At approximately 12:00 p.m., NASDAQ reported to Commission staff that it was having issues delivering trade execution messages from the IPO cross in Facebook and was investigating this problem. As is standard practice, the Commission staff did not offer any recommendations to NASDAQ when it learned of the system problems. Commission staff asked to be kept apprised of any updates as soon as they were available. In addition, Commission staff commenced its own inquiry into NASDAQ's systems issues.

- Do you believe that NASDAQ failed to promote an orderly marketplace in the trading of Facebook shares on May 18?
- Do you believe that NASDAQ should have delayed the opening auction of Facebook shares until it was able to resolve its systems issues?

Two of the primary objectives of the Securities Exchange Act of 1934 ("Exchange Act") are to protect investors and maintain fair and orderly markets. As the primary venues in which investors trade listed securities, exchanges play an essential role in achieving these Exchange Act goals. As with any market event or breakdown, it is consistent with our mandate to investigate whether NASDAQ and other market participants acted in accordance with their Exchange Act responsibilities on May 18, 2012.

- As the Facebook IPO generated significant but not unexpected investor interest, did NASDAQ test its opening cross trading system prior to May 18? If so, did NASDAQ share the results of these tests with the SEC?

I understand that NASDAQ did conduct testing of its IPO cross system, which included testing with its member firms, just prior to May 18. As is standard practice in connection with pre-IPO systems testing, the test results were not shared with the Commission prior to the Facebook IPO.

- Has the SEC reviewed the NASDAQ rule proposal to create a $40 million accommodation program to compensate its customers? If so, does the SEC believe that this accommodation program is sufficient to compensate NASDAQ's customers?
- Do you believe that NASDAQ's accommodation rule proposal conforms with Section 6 of the Securities Exchange Act of 1934, which requires a national securities exchange to have rules that "do not impose any burden on competition?"
- Should the SEC appoint a special master to determine the validity of customer claims, rather than allow the Financial Industry Regulatory Authority (FINRA) to perform this function?
- If FINRA does perform the role of determining valid claims, how should FINRA structure its review so as to avoid any perceived or actual conflicts of interest?

On July 23, NASDAQ filed with the Commission a proposal to raise its limitation of liability cap for member losses due to NASDAQ's systems issue with the Facebook IPO cross. As is standard with any SRO rule filing, the full text of the proposed accommodation program has been posted on the SEC's website at http://www.sec.gov/rules/sro/nasdaq/2012/34-67507.pdf and has been published in the Federal Register at http://www.gpo.gov/fdsys/pkg/FR-2012-08-01/pdf/2012-18704.pdf. In essence, the proposal would allow NASDAQ to pay up to $62 million to members that suffered losses specifically identified in the filing as eligible for compensation. Pursuant to the rule filing process under the Exchange Act, the Commission must notice the proposal for public comment and consider any comments received before determining whether to approve or disapprove the proposal or whether to institute proceedings to determine whether to disapprove the proposal. Since your questions regarding the sufficiency of the proposed accommodation proposal, FINRA's role in the process, and the proposal's consistency with the Exchange Act relate to a matter currently under consideration by the Commission, I cannot address them at this time.

- Does a rebate on future order flow meet the SEC's mandate to maintain fair, orderly, and efficient markets and promote competition?

Unlike earlier reports of NASDAQ's accommodation proposal, NASDAQ's July 23 rule filing does not include a rebate on future order flow. As detailed in the filed proposal, all accommodation payments would be paid in cash.

- When was the most recent SEC examination of NASDAQ's trading systems conducted? What were the results of this examination? Did this examination include a review of the dynamic auction cross system?
- Did SEC staff identify any weaknesses or problems in NASDAQ's trading systems? If so, what remedial action, if any, did SEC staff recommend to NASDAQ? Has NASDAQ performed the remedial action to the SEC's satisfaction?

The Commission has an ongoing examination program for all national securities exchanges, including NASDAQ. Pursuant to this program, Commission staff has regularly conducted inspections of particular aspects of NASDAQ's activities, including its trading systems, since it became a national securities exchange in 2006. These inspections are generally focused on a particular area of NASDAQ's operations and, in most instances, relate in some way to operation of NASDAQ's trading systems. For example, in mid-2007, the Commission conducted an inspection that specifically focused on the NASDAQ equity trading system, including a review of general information technology controls. Commission staff did not identify any problems with NASDAQ's trading systems other than an insufficient governance framework for the software life cycle. Commission staff recommended that NASDAQ should document its governance of the software development life cycle, which should address risk, requirements management, project management, quality management, programming standards, and change management. NASDAQ remediated this deficiency and the recommendation was closed in October 2008.

In 2009, as part of our oversight of equity and options exchanges, and to emphasize the exchanges' responsibilities under the federal securities laws, Commission staff clarified that each exchange, including NASDAQ, (1) establish effective controls to ensure that its trading systems operate in accordance with securities laws and its own rules, and (2) inform the staff of instances where the systems do not operate as such. We are including a copy of the letter sent by the Commission staff from the Division of Trading and Markets and the Office of Compliance Inspections and Examinations to NASDAQ in 2009 concerning systems compliance. Similar letters were sent to all of the other exchanges. Since that time, the Commission staff has engaged in regular dialogue with the exchanges, including NASDAQ, about systems compliance issues.

Most recently, beginning early in 2011 and concluding early in 2012, Commission staff conducted broad, baseline risk assessment inspections of all of the exchanges, including NASDAQ. The purpose of these reviews was to obtain a current snapshot of each exchange to identify higher priority areas of risk for immediate attention and further review. The inspections included reviews of exchange systems and technology, which encompassed assessments of controls over trading systems compliance. The staff identified risks with respect to such controls, and is using the results of those risk assessments to enhance its existing examination plans.

Thank you again for your letter. Please contact me at (202) 551-2100 or have your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any questions or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

Enclosure

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

OFFICE OF COMPLIANCE
INSPECTIONS AND
EXAMINATIONS

December 1, 2009

Robert Greifeld
President and Chief Executive Officer
NASDAQ Stock Market LLC
165 Broadway
50th Floor
New York, NY 10006

Re: SRO Systems Compliance

Dear Mr. Greifeld:

Section 19(g)(1) of the Securities Exchange Act of 1934 ("Exchange Act") requires each self-regulatory organization ("SRO") to comply with the provisions of the Exchange Act, the rules and regulations thereunder, and its own rules. Over the past several years, SROs have increasingly automated their trading and compliance systems. As a result, it is critical for each SRO to ensure that its automated systems are designed and function in compliance with the securities laws and rules and the SRO's rules.

It is an SRO's obligation to ensure that its systems' operations are consistent with the securities laws and rules and the SRO's rules. Failure to satisfy this obligation can lead to sanctions under Section 19(h)(1) of the Exchange Act, including censure, limitations on the SRO's activities, and revocation or suspension of SRO registration. The Staff would like to clarify its expectations regarding SRO systems compliance,[1] which include the following:

1. Each SRO should implement effective written policies and procedures for systems development and maintenance that include:
    a. Testing prior to implementation;
    b. Regular testing after implementation;
    c. Controls over system changes;
    d. Independent audits of systems compliance; and
    e. Regulatory oversight of the systems design, changes, testing, and controls to prevent, detect, and address actions inconsistent with the securities laws and rules and the SRO's rules.

---

[1] Compliance with this guidance will not preclude the Commission from taking appropriate action under the Exchange Act, or the rules thereunder, with respect to instances of non-compliant systems functions.

2. If the SRO becomes aware of a system function that could lead or has lead to a failure to comply with the securities laws and rules or the SRO's rules, it should immediately take appropriate corrective action, including, at a minimum, devoting adequate resources to remedy the issue as soon as possible. In addition, the SRO's written policies and procedures should generally require the SRO to:
   a. Notify Staff from the Office of Compliance Inspections and Examinations and the Division of Trading and Markets of the issue, and keep the Staff apprised of efforts to resolve the issue;
   b. Notify the public of the issue, including:
      i. How long the issue has existed;
      ii. Its impact on the markets and market participants; and
      iii. How the SRO plans to resolve the issue;
   c. Notify the public and Staff when implementation of the solution is complete; and
   d. Provide any appropriate remedy to market participants who have been injured by a system function that led to a failure to comply with the securities laws and rules or the SRO's rules.

We welcome the opportunity to discuss with you in further detail what additional steps each SRO can take to meet its statutory obligation to comply with the securities laws and rules and the SRO's rules.

Sincerely,

John H. Walsh
Acting Director
Office of Compliance Inspections and Examinations

James A. Brigagliano
Deputy Director
Division of Trading and Markets

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

November 15, 2011

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Bachus and Ranking Member Frank:

Pursuant to Section 21F(g)(5) of the Securities Exchange Act of 1934 and Section 924(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, enclosed please find the fiscal year 2012 annual report of the staff of the Securities and Exchange Commission concerning the Commission's whistleblower award program and Investor Protection Fund.

Please have your staff call me at (b)(6) [redacted] if you have any questions or comments.

Sincerely,

Timothy B. Henseler
Acting Director

Enclosure

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

THE CHAIRMAN

August 15, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U. S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

Thank you for your August 2, 2012 letter concerning implementation of Title II of the Jumpstart Our Business Startups Act (the JOBS Act). Your letter requests that the rules the Commission proposes concerning the steps an issuer must take to verify accredited investor status not be unduly burdensome on issuers or investors.

The Commission and the staff have been actively working to implement Title II of the JOBS Act since its enactment. We have received a great deal of helpful input from the public concerning implementation of the provision, including the required steps to verify accredited investor status. I appreciate your input and will carefully consider the views expressed in your letter as the Commission moves forward with the rulemaking process.

Thank you again for your letter which will be added to the public comment file. Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) (b)(6) if you have any additional comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

June 29, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

Section 915 of the Dodd-Frank Wall Street Reform and Consumer Protection Act added Section 4(g) to the Securities Exchange Act of 1934 to establish within the Securities and Exchange Commission an Office of the Investor Advocate. The Investor Advocate is designated as the head of the Office and is required by statute to report on the Office's objectives for the following fiscal year not later than June 30 of each year after 2010.

The passage of the Commission's Fiscal Year 2012 appropriation in P.L. 112-74 provided authority and funding to establish the Office. Currently, there are two job postings for the Investor Advocate open on USAJOBS. In order to attract strong candidates with relevant experience, we posted for both an attorney and non-attorney position. The deadline for applications is July 3, 2012. Until the Investor Advocate is officially onboard, other divisions and offices of the Commission are performing many of the functions that are contemplated to be performed by the Office of the Investor Advocate.

For example, on June 12, 2012, the Office of Investor Education and Advocacy (OIEA) facilitated the inaugural meeting of the new Investor Advisory Committee required under Section 911 of Dodd-Frank. One of the main purposes of the Investor Advisory Committee is to advise and consult with the Commission on the regulatory priorities of the Commission. At the inaugural meeting, the Investor Advisory Committee voted for officers and approved its Charter and By-Laws. On June 18th a telephonic meeting with the officers established the subcommittees of the Investor Advisory Committee.

OIEA also assists retail investors in resolving significant problems these investors may have with the Commission or with self regulatory organizations (SROs), handling complaints and questions from retail investors on a daily basis. During FY 2011, OIEA closed 33,632 files related to complaints, questions, and other contacts received from investors. When an investor raises a significant issue about the Commission's actions or the staff's handling of a matter, a referral is made to the Commission's Office of the Inspector General. If an investor raises a significant issue about an SRO, a referral is made to the Commission's Division of Trading and

Markets. The Division of Trading and Markets also receives communications directly from the public about problems investors may have with SROs.

Generally speaking, the federal securities laws require the Commission to consider the protection of investors and the public interest in its regulatory actions. The divisions and offices support the Commission in fulfilling this requirement. In discharging this responsibility, the Commission solicits comment from the public on its rulemakings and regularly receives comments from investors. OIEA often provides input into Commission rule proposals as they are being developed and drafted, focusing on helping to ensure that the interests of retail investors are reflected in the rulemaking. The new Investor Advisory Committee will advise and consult with the Commission on the Commission's regulatory priorities from the perspective of investors. With respect to SRO rulemakings, the Division of Trading and Markets regularly reviews these rules through the SRO rulemaking process and considers any comments received from investors. Finally, OIEA conducts investor testing on Commission-required disclosure documents with the goal of improving the content, format, and delivery of that information for particular investment products.

In conclusion, the Commission currently engages in a number of activities to support the goals of investor protection. Until the Office of the Investor Advocate is fully staffed, we will continue to seek to fulfill the functions of the Office through the work of the OIEA and other divisions and offices. If you have any questions, please do not hesitate to contact me at (202) 551-2100 or have your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

May 24, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

Thank you for your April 17, 2012 letter regarding the Commission's continuing review of the regulation of money market funds.

As you are aware, money market fund reform is important because of the risk that a run in money market funds poses to investors, to the short-term credit markets, and potentially to American taxpayers. It was less than four years ago that the bankruptcy of Lehman Brothers, Inc. touched off a run on money market funds, with $310 billion withdrawn from prime money market funds in a single week. The result was the freezing of the short-term credit markets on which hundreds of companies, financial institutions, and state and local governments rely for short-term funding. A financial catastrophe and great harm to investors were prevented only by the unprecedented intervention in the markets by the federal government, which included the Treasury Department's temporary money market fund guarantee program.

The Commission's 2010 money market fund reforms, while important, were not designed to prevent a run if another money market fund were to experience similar losses. The 2010 reforms did not address the structural aspects of money market funds that make them susceptible to runs, which we deferred for later consideration. Moreover, it may be impossible to stop another run on money market funds before it inflicts substantial damage because the Treasury Department is now statutorily prohibited from using its authority to guarantee money market fund shares as it did during the financial crisis.

Last summer, there were substantial redemptions from prime money market funds as a result of concerns about money market funds' large Eurozone bank exposures, even though there were no losses. If there had been credit losses, the funds may not have been able to withstand the cumulative effect of substantial redemptions and loss in value. In addition, last fall, after a rating agency downgraded a Norwegian bank, two fund sponsors bought holdings from that bank out of their funds so that the funds themselves would not be downgraded and become ineligible investments for many institutional investors. This underscores that, under our current regulatory structure, discretionary sponsor support often is the only way to eliminate problematic or devalued holdings in a money market fund portfolio. As we saw in 2008, however, that sponsor support may not always be available, particularly in a crisis.

A run on money market funds would likely harm smaller, retail money market fund investors disproportionately. The 2008 experience suggests that institutional investors will redeem more quickly, leaving retail investors and small businesses with the bulk of the losses. Many money market funds could be forced to suspend redemptions, leaving the remaining investors unable to make mortgage payments, college tuition payments, or payrolls.

I do want to assure you that I am taking a very deliberate approach to further money market fund reforms. I have directed the staff to carefully explore all of the options available to us before moving forward. If the Commission proposes further rulemaking, I expect that it will be accompanied by a detailed explanation of the need for further reform and an economic analysis of the potential costs and benefits of any proposed rules. I expect that such analysis would include not only the costs to the mutual fund industry, but also the expected benefits to the tens of thousands of money market fund investors as a result of avoiding future runs.

As you note, the Commission has a substantial rulemaking agenda in front of it as a result of the enactment of the Dodd-Frank Act and the JOBs Act. However, a significant priority of the Commission must be to take steps within our statutory authority to address weaknesses revealed during the financial crisis in order to protect investors and avoid another destabilizing disruption to the short term credit markets.

Again, thank you for taking the opportunity to share your views on this very important topic. Please contact me at (202) 551-2100, or have your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] for further assistance.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIR

November 6, 2013

The Honorable Spencer Bachus
U.S. House of Representatives
2246 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Bachus:

Thank you for your September 20, 2013 letter expressing your concern that financial reporting obligations of companies under generally accepted accounting principles in the United States (U.S. GAAP) are not consistent with pension funding rules, including recent changes made to pension funding obligations under Public Law 112-141, the "Moving Ahead for Progress in the 21st Century Act" (MAP-21).

As you know, the objective of financial reporting under U.S. GAAP is to provide information that is useful to investors and others in their decision-making process. The Commission has broad authority and responsibilities under the federal securities laws to specify standards for financial disclosure by public companies. The Commission has historically looked to private sector, independent standard setting bodies to assist in developing accounting standards. In 2003, the Commission issued a policy statement that recognized the accounting standards of the Financial Accounting Standards Board (FASB) as "generally accepted" for purposes of the federal securities laws.

Currently, the FASB is performing research in connection with the next phase of its project to comprehensively reconsider employers' accounting for pension and other postretirement benefits. The purpose of the project is to improve the quality of the information provided to investors, creditors, and other financial statement users. The proposed scope of the project includes reconsideration of the manner in which employers are required to determine the discount rate for purposes of calculating their pension and other postretirement benefit obligations under current U.S. GAAP.

Staff in the Commission's Office of the Chief Accountant is actively engaged in overseeing the FASB's project on accounting for pension and other postretirement benefits as well as all other FASB project activities, and in monitoring whether the FASB's accounting standards provide investors with the information they need in order to make investment decisions. Our staff monitors the FASB's open process that allows for broad public exposure of documents and consultation with various advisory groups, task forces, and working groups of constituents. The FASB seeks feedback from groups such as individual investors, institutional investors, lenders, analysts, auditors, financial statement preparers, regulators, academics, and various other parties. This process is essential to ensuring that accounting standards remain current, while promoting credible, comparable financial information.

We understand that the FASB expects to consider the results of its staff research in meetings this fall.

Thank you for your interest in this important issue. Please contact me at (202) 551-2100, or have your staff contact Tim Henseler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any questions or comments.

Sincerely,

Mary Jo White
Chair

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

THE CHAIRMAN

April 20, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

Thank you for your March 26, 2012 letter concerning the premium capture cash reserve account requirement in the rules proposed jointly by the Commission, the Department of Housing and Urban Development, the Federal Deposit Insurance Corporation, the Federal Reserve Bank, the Federal Housing Finance Agency and the Office of the Comptroller of the Currency that would establish risk retention requirements under section 941(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (P.L 111-203). In your letter, you identify third party estimates of the potential impact of the proposed "premium capture cash reserve accounts" (PCCRA) requirement and request further information on agencies' cost-benefit analysis of this proposed requirement.

The notice of proposed rulemaking included the Commission's preliminary cost-benefit analysis of the proposed risk retention requirements, which included the proposed PCCRA requirement, and solicited the views of interested parties. In addition, the notice of proposed rulemaking included many requests for comment on the proposed PCCRA requirement. The proposing agencies specifically requested the public's input on whether there are alternative methodologies that would better achieve the purpose of PCCRA, which is primarily to prevent sponsors from structuring around the minimum five percent risk retention requirement.

The Commission has received substantial comment on this particular aspect of the proposed rules, including several estimates on costs similar to the estimates you have identified in your letter. No decisions have been reached at this point on the terms of the final rules, including the proposed PCCRA requirement. We are currently considering all comments received as we work cooperatively with the other agencies to develop final regulations that would effectively implement all aspects of section 941(b) in a manner consistent with the language and purposes of that section. The Commission's staff, including the economists in our Division of Risk, Strategy and Financial Innovation, is working diligently and collaboratively with the staff of the other agencies to ensure that the potential costs and benefits are fully considered as the agencies develop final rules. As we continue our work, we will continue to analyze the potential costs and benefits and will include a final analysis in the adopting release for the final rules. We will carefully consider your comments on the cost-benefit analysis as we move forward with this interagency rulemaking process.

Again, thank you for your input. Your comments will be included in the public comment file for the rulemaking, which is available on the SEC website. Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if we can be of further assistance.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

June 1, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

In response to your letter of May 9, 2012, the U.S. Securities and Exchange Commission (SEC) is herein providing information about its conference-related activities and expenses for the period July 1, 2010 to present. Below are responses to the specific questions posed in your letter.

1. The SEC's internal written policies for planning and conducting conferences.

The agency's policy on conferences is stated in *SEC Regulation 5-4, Conference Authorization. (SECR 5-4)* which was last updated on August 25, 2011. SECR 5-4 is consistent with and implements the provisions of Part 301-74, Conference Planning, of the Federal Travel Regulation (FTR). (See Attachment 1.)

2. A list of all conferences held by/on behalf of the SEC since July 1, 2010.

Attachment 2 is list of conferences sponsored by the SEC since July 1, 2010. With regard to our response, please note the following:

- In gathering information to respond to your request, staff pulled data from multiple sources in a relatively short timeframe. We have made every effort to ensure the accuracy of the data contained in this response, and believe that any inaccuracies in the data are non-material. Nonetheless, we will continue to review the data and will inform the Committee if we identify information that needs to be updated or corrected.

- The SEC staff's review of our acquisitions activity for conferences, training conferences, and other meetings found that the agency had not engaged any event planning services or firms during this time period. As a result, there was no budget for use of event planning services, nor indirect charges incurred related to use of such firms. Furthermore, there were no solicitation bids for event planning services.

- With regard to cooperative agreement recipients, the SEC has one inter-agency agreement (IAA) with the U.S. Agency for International Development (USAID) for SEC technical assistance programs abroad. Under the terms of the IAA, program expenses are often shared by the SEC and the program sponsor. The specific arrangement varies by program and depends on the amount of funding provided by USAID. Since July 1, 2010, the SEC has conducted two programs that were funded by USAID:

- "Vietnam Bilateral Training Program," which was held from October 19 – 23, 2010, and conducted by four SEC staff. The cost of staff travel and lodging for this program totaled $66,122, which was reimbursed to the SEC by the program's sponsor, the Vietnam State Securities Commission.

- Nigeria Regional Program, which was held from July 18-22, 2011, and conducted by four SEC staff. USAID paid for SEC staff lodging and per diem (meals), and the meeting space, including working lunches for training participants. The Nigeria Securities and Exchange Commission, the program sponsor, paid for SEC staff airfare. The cost of staff travel and lodging was $68,999 and the total cost for meeting space, food and light refreshments was $16,876.

- The SEC's review of our conference-related activity for the specified time period found only one instance of pre-conference planning travel: $100 in travel expenses to find the Charlottesville, VA location for the June 21, 2011 training conference reflected on Attachment 2; and

- The SEC's review did not find any conference spending for individual participants that exceeded the per diem rate for the chosen locality during the specified time period.

3. **The SEC's internal guidelines for soliciting bids for event planning services.**

The SEC is not aware of any event planning services firms having been engaged during the specified time period. Accordingly, we have not developed specific internal guidelines for this type of acquisition.

4. **The SEC's internal guidelines for overseeing and approving indirect costs incurred by event planning services, including whether the Commission requires event planning services to solicit bids from external vendors for specialize support.**

The SEC is not aware of any event planning services firms having been engaged during the specified time period. Accordingly, we have not developed specific internal guidelines for overseeing and approving indirect costs incurred by event planning services.

5. **The SEC's internal guidelines for overseeing and approving indirect costs incurred by cooperative agreement recipients, including whether the Commission requires said recipients to solicit bids from external vendors for specialized support.**

The SEC follows the terms of established inter-agency agreements and the FAR when engaging with cooperative agreement partners, and expects those partners to abide by and follow the FAR when engaging in acquisition activity.

6. **A list of all conferences, not sponsored by the SEC, attended by Commission personnel, including name of conference/sponsor, number of personnel who attended and aggregate cost.**

   We are in the process of gathering information to provide a response to question 6 regarding conferences not hosted by the agency but attended by our staff. The relevant data is not maintained in a single system, and in most cases, can only be compiled through a review of individual travel vouchers. This review is time intensive and involves sifting through significant amounts of data. We are continuing to process and compile the data and will provide you with the responsive information as soon as possible.

Please contact me at (202) 551-2100, or have your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any further questions or comments.

Sincerely,

Mary L. Schapiro
Chairman

U.S. Securities and Exchange Commission
Office of Financial Management
Washington, DC 20549

SECR 5-4
August 25, 2011

SEC ADMINISTRATIVE REGULATION

CONFERENCE AUTHORIZATION

This regulation prescribes the policies, requirements, and responsibilities for planning and approving SEC-sponsored conferences. This policy will be reviewed every 18 months to ensure the contents remain relevant and reflect current SEC regulations.

Summary of Changes. This policy supersedes SECR 5-4 dated April 23, 1983. It has been totally rewritten.

KENNETH A. JOHNSON
Chief Financial Officer
Office of Financial Management

CONFERENCE AUTHORIZATION

1. **Purpose and Scope.** This regulation prescribes the policies, requirements, and responsibilities for planning and approving SEC-sponsored conferences.

2. **Authority.**
   a. Federal Travel Regulation, 41 CFR 301-74
   b. Government Employees Training Act, 5 U.S.C. 4101

3. **Applicability.** This regulation applies to all SEC divisions and offices planning conferences.

4. **Policy.** SEC-sponsored conferences shall be planned in a manner that ensures that:
   a. proposed expenditures are reasonable and necessary; and
   b. benefits derived by the agency exceed the costs incurred.

5. **Definitions.**
   a. **Conference.** For purposes of this policy, conference means a meeting, retreat, seminar, symposium or event that involves attendee travel. This term also includes training activities that are considered to be conferences under 5 CFR 410.404.
   b. **Conference Planner.** The person or persons responsible for organizing the conference and associated logistics.
   c. **Conference Site.** This includes both the geographic location and the specific facility selected to hold the conference.
   d. **Responsible Manager.** Responsible managers are Division Directors, Regional Directors and Office Heads.

6. **Responsibilities.**
   a. **Responsible Manager.** These individuals are responsible for:
      1. Reviewing and approving their organization's conference plans, including estimated costs and benefits.
      2. Ensuring all material direct and indirect costs are considered when planning a conference.
      3. Selecting a location that ensures conference expenditures result in the greatest cost advantage to the government while also satisfying mission needs for the conference.
      4. Limiting the number of staff attending a conference to the minimum necessary to accomplish the mission.
   b. **Conference Planners.** These individuals are responsible for:

1. Collecting comprehensive cost information to allow their responsible managers to make informed business judgments about whether proposed expenditures are reasonable and necessary, and ensuring that costs, when incurred, meet the agency's expectations in terms of what it is getting and at what price.
2. Ensuring all appropriate documentation is approved by the responsible manager and submitted to the Office of Financial Management (OFM) within the time periods prescribed by OFM.
3. Ensuring that appropriate written documentation of the cost of each conference site considered and the selection rationale used is provided to OFM.
4. Ensuring that all approvals are obtained before initiating any procurement action relating to the conference.
5. Ensuring that applicable legal requirements, including procurement requirements, are followed when acquiring conference facilities and services. Placement of orders for such facilities shall be done only by staff in the Office of Administrative Services Office of Acquisitions (OA).

c. **Office of Financial Management.** This office is responsible for:
   1. Providing technical expertise on all matters pertaining to the conference planning requirements set forth in the Federal Travel Regulation.
   2. Issuing guidance to implement this policy and "Part 301-74-Conference Planning" of the Federal Travel Regulation, as deemed necessary.
   3. Authorizing SEC-sponsored conferences that involve the expenditure of funds.

7. General Procedures

a. Organizations shall minimize all conference costs by (a) conducting cost comparisons of the size, scope, and location of proposed conferences; (b) considering alternatives to conferences such as teleconferencing or webcasting; and (c) maximizing the use of government-owned or government-provided conference facilities.

b. Conferences that involve the expenditure of funds for travel, rental of space, subsistence, or salaries and benefits for time in excess of normal duty hours shall be approved in advance by the responsible manager and Chief Financial Officer. Conferences that do not involve expenditure of funds as described above shall be approved in advance by the responsible manager.

c. The placement of orders for such facilities is subject to acquisition regulations, and shall be placed only by staff in OA.

d. For each conference the agency sponsors or funds, in whole or in part, for 30 or more attendees, the office planning the conference must consider at least three conference sites. The requesting office, as needed, shall consult with OA. The requesting office will maintain a record of the estimated cost of each alternative conference site considered and provide a copy of this documentation to OFM when requesting approval. These records shall be available for inspection.

e. SEC staff may not retain for personal use any promotional benefits or materials received from a service provider as a result of booking an SEC-sponsored conference.
f. Conferences that do not meet the requirements of this policy may not be funded by the agency.

Attachment 2

SEC-Sponsored Conferences
July 1, 2010 - May 22, 2012

Date	Days of Duration	Site Location	SEC Office	Title/Purpose/Topic	Number of Participants (external & SEC)	Total Budget Amount
7/1/10	2.5	SEC Denver Regional Office	OCIE	Transfer Agent Conference	60	64,675
7/1/10	3	SEC Headquarters	ENF	FCPA Mini Boot Camp Training Program (with FBI and US Attorney's Office)	40	49,500
7/6/10	4	SEC Headquarters	OIA	International Institute Inspection and Oversight Markets	110	1,874
7/7/10	3	SEC Headquarters	IM	IOSCO Standing Committee 5 Meeting and Sub-Group Meeting	40	3,761
7/12/10	2	SEC New York Regional Office	TM	Steering Group of the Committee on Payment and Settlement Systems and IOSCO project	60	4,920
7/13/10	1	SEC Headquarters	TM	US Regulatory Organizations Steering Group Meeting	20	213
7/20/10	4	SEC Headquarters and other locations in Washington, DC	OIEA	SEC Graduate Program (Training Conference for Educators)	37	3,621
7/26/10	3	SEC Headquarters	OCIE	13th Annual Joint Conference: Working Together to Fight Fraud (w/ NASAA, FINRA and CBOE)	135	175,135
8/1/10	3.5	SEC Headquarters	OCIE	Investment Adviser/Investment Company Specialty (Examinations)	120	128,700
8/6/10	1	SEC New York Regional Office	OCIE	NRSRO Conference	38	229
9/1/10	5	Washington, DC	ENF	Enforcement Training Conference	55	129,250
9/2/10	2	Fort Worth, TX	FWRO	33rd Annual State-Federal SW Securities ENF Conference	72	12,800
10/14/10	2	SEC Headquarters	OIA	Meeting of IOSCO OTC Derivatives Regulation Task Force & the UK	40	4,700
10/18/10	3.5	Washington, DC	OCIE	Senior Examiners Training Conference	240	292,200
10/18/10	4	SEC San Francisco Regional Office	TM	CPSS-IOSCO and IOSCO Standing Committee (2 Simultaneous Meetings)	60	4,550
10/19/10	2	Boston, MA	BRO	New England Securities Conference (with FBI, Massachusetts Securities Division, and US Attorney's Office)	250	11,090
10/27/10	2	SEC Headquarters	OIA	IFRS Foundation Meeting	48	3,200
11/1/10	5	SEC Headquarters	OIA	International Enforcement Institute Training	185	5,985
11/2/10	2	SEC Headquarters	ENF	Structured and New Product Unit Boot Camp	40	27,000
11/18/10	1	SEC Headquarters	CF	Government-Business Forum on Small Business Capital Formation	100	-
11/22/10	1	SEC Headquarters	OIA	CESR-Fin	4	150
11/23/10	1	SEC Headquarters	OIA	IOSCO and Eastern Caribbean Securities Regulatory Commissions	10	60
12/1/10	5	SEC Miami Regional Office	TM	IOSCO Standing Committees 3 and 6 Meetings	50	4,700
12/9/10	2	SEC Headquarters	CF	IOSCO Standing Committee 1 Disclosure Subcommittee Meeting	8	1,200
12/9/10	2	SEC Headquarters	OIA	Meeting with Israel Securities Authority (ISA)	20	600
1/1/11	5	SEC Headquarters	ENF	New Enforcement Employee Training, including National Institute for Trial Advocacy Training	100	76,500
3/28/11	1	SEC Headquarters	OIA	IFRS Foundation Monitoring Board	50	100
6/8/11	2	SEC Philadelphia Regional Office	ENF	Mid-Atlantic Enforcement Cooperative Conference	40	500
6/14/11	1	SEC Headquarters	OIA	Israel Securities Authority Meeting	13	4,600
6/21/11	1.5	Charlottesville, VA	OCOO	OCOO Training Conference	16	9,014
6/27/11	3	SEC Headquarters	ENF	Foreign Corrupt Practices Act Unit Training Conference	54	33,950
7/6/11	2	LA Regional Office	LARO	Pacific Region Joint Regulatory Conference and Exam & Enforcement Summit	70	1,400
7/18/11	3	Philadelphia, PA	ENF	Asset Management Unit Training Conference	62	51,000
7/19/11	3	SEC Headquarters	TM	CPSS-IOSCO ET and Subgroup Meetings	40	6,780
7/21/11	1	SEC Headquarters	OIA	Capital Markets Board of Turkey Meeting	11	850
7/26/11	4	SEC Headquarters and other locations in Washington, DC	OIEA	SEC Graduate Program (Training Conference for Educators)	34	2,943
8/23/11	3	SEC Headquarters	OIT	SEC IT Community Annual Training Conference	40	38,610
8/31/11	1	SEC Headquarters	OIA	Meeting with Representatives from the European Comission (EC) and the European Securities and Markets Authority (ESMA) and the CFTC	23	850
9/8/11	2	Atlanta, GA	OCIE/ENF	Southeast Securities Conference for Regulators/Investigators/Prosecutors	175	36,125
9/13/11	2	SEC Headquarters	ENF	Structured & New Products Unit Training Conference	60	26,830
9/15/11	1	Boston Regional Office	OCIE/ENF	Diversity Committee Training Conference	30	600
9/19/11	2.5	Washington, DC	ENF	Enforcement Chief Cooperative Training Conference	185	117,305
9/21/11	2.5	Washington, DC	OCIE	OCIE Training Conference	202	161,050
10/6/11	2	SEC Headquarters	TM	Joint Forum Working Group (DNSR)	11	870
10/13/11	1	SEC Headquarters	IM	IOSCO Standing Committee 5 Sub-Group Meeting	11	250
11/14/11	5	SEC Headquarters	OIA	International Enforcement Institute Training	185	6,075
11/17/11	1	SEC Headquarters	CF	Government-Business Forum on Small Business Capital Formation	550	1,662
12/5/11	1	Washington, DC	OHR	American Institute of Certified Public Accountants Conference (SEC & PCAOB)	259	25,675
12/6/11	1	CFTC/NY	TM	CPSS-IOSCO Editorial Team Subcommittee Meeting	20	666
12/12/11	3	SEC Headquarters	ENF	Market Abuse Unit Training Conference	59	71,383
12/15/11	1	Washington, DC	OIA	Transatlantic Corporate Governance Dialogue Meeting	40	1,204
1/11/12	4	SEC Headquarters, PCAOB Headquarters, and other location in Washington, DC	OIA	Meeting with Delegation from China Securities & Regulatory Commission	27	24,799
1/12/12	1	SEC Headquarters	OCIE/OIA	European Securities Market Authority Meeting	13	164
1/12/12	1	SEC Headquarters	TM	Self-Regulatory Organizaton Conference	255	3,200
1/31/12	1	SEC Headquarters	OCIE	Compliance Outreach Program National Seminar	500	15,850
2/7/12	1	SEC Headquarters	ENF	Residential Mortgage-Backed Securities Training Conference	120	4,802
3/28/12	1	Atlanta Regional Office	OCIE	ARO State Transition Training	40	120
3/28/12	1	SEC Headquarters	TM	Financial Services Authority of the UK Meeting	11	188
3/28/12	1	SEC Headquarters	OIA	Ontario Securities Commission Meeting	6	179
4/11/12	2	Seattle, WA	OCIE	Northwest Examination Summit & Securities Conference	50	14,914
4/16/12	11	SEC Headquarters	OIA	International Institute Training	185	7,244
4/27/12	2	SEC Headquarters	OIA	Meeting with Australian Securities and Investments Commission (ASIC)	4	36
5/9/12	2	Philadelphia, PA	ENF	Mid-Atlantic Enforcement Cooperative Conference	60	9,939
5/15/12	2	SEC Headquarters	OCIE	Tips, Complaints and Referrals (TCR) Bootcamp Training Conference	100	43,683
					TOTAL	$1,734,895

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

THE CHAIRMAN

August 13, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

In accordance with Section 991 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Commission is required to notify Congress within 10 calendar days of the obligation of funds from the Commission's Reserve Fund.

This letter is to notify you that, on August 8, 2012, the Commission obligated $4,980,000.00 from the Reserve Fund for a portion of the SEC.gov modernization project. Specifically, the funds have been obligated for professional services to implement major architectural improvements and redesigns of the SEC.gov website, the Commission's investor.gov website, the public EDGAR repository, and the Commission intranet. The SEC.gov website is one of the Federal Government's most viewed web-sites and serves as a vital gateway for both businesses and individuals to access massive amounts of critical, financial filer information (13.5 terabytes) maintained by the Commission. The SEC.gov modernization project will make the sites more informative, easier and more intuitive to navigate and update, more flexible to support evolving content and functionalities, and more secure. It will also reduce system operating and maintenance costs.

We will continue to notify you as further obligations occur. Please do not hesitate to contact me at (202) 551-2100, or have your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) with any additional questions or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

September 18, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

Thank you for your August 21, 2012 letter regarding the rulemaking to implement Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Chairman Schapiro asked that I respond to your letter as she is recused from this particular rulemaking.

As you are aware, Section 1504 amends the Exchange Act by adding new Section 13(q), which requires the Commission to issue rules requiring resource extraction issuers to include in an annual report information relating to any payment made by the issuer, or by a subsidiary or another entity controlled by the issuer, to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals. On August 22, 2012, the Commission adopted new rules that would implement the requirements of Section 1504. The Commission received a great deal of public comment on the rule proposal, which informed the Commission in its consideration of final rules. The adopting release for the final rules is available on our website at http://www.sec.gov/rules/final.shtml .

Again, thank you for taking the time to share your views. Please do not hesitate to contact me at (b)(6) if I can be of additional assistance.

Sincerely,

Timothy B. Henseler
Acting Director

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

OFFICE OF
EQUAL EMPLOYMENT
OPPORTUNITY

March 29, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

Section 203 of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (P. L. 107-174; 116 Stat. 566) requires an annual report regarding the Commission's activities to ensure accountability for antidiscrimination and whistleblower laws related to employment. Enclosed please find a copy of the report prepared by the staff of the Commission. This report complies with the Office of Personnel Management regulations published at 5 CFR Part 724.

Sincerely,

(C.A.)

Alta G. Rodriguez
EEO Director

Enclosure

Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002

Annual Report

Fiscal Year 2011

United States

Securities and Exchange Commission

March 2012

This is the United States Securities and Exchange Commission's (SEC) annual No FEAR Act Report prepared pursuant to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, "No FEAR Act." See 107 P.L. 174, Title II section 203 (a). The Office of Personnel Management (OPM) regulations governing reporting obligations are published at 5 C.F.R. Subpart C § 724.302 (2009). The required information is provided below with citations and full text of the applicable sections of the OPM regulations.

§ 724.302 (a)(1) The number of cases in Federal Court pending or resolved in each fiscal year and arising under each of the respective provisions of the Federal Antidiscrimination Laws applicable to them as defined in § 724.102 of subpart A of this part in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved.

Cases in Federal Court Alleging Employment Discrimination

Status	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11
Opened	2	1	2	1	2	1
Pending	4	4	4	5	3	4
Closed	1	1	1	1	2	2

Cases in Federal Court Alleging Whistleblower Retaliation

There were no cases alleging Whistleblower Retaliation pending at any time during the period FY 2006-2011.

§ 724.302 (a)(2)(i) In the aggregate, status or disposition (including settlement).

Cases in Federal Court Alleging Employment Discrimination

Disposition	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11
Dismissed	0	0	0	0	0	0
Summary Judgment Granted to SEC	1	1	0	0	1	2
Withdrawn	0	0	0	0	0	0
Settled	0	0	1	0	1	0
Merits Decision	0	0	0	0	0	0

Cases in Federal Court Alleging Whistleblower Retaliation

There were no cases alleging Whistleblower Retaliation pending at any time during the period FY 2006-2011.

§ 724.302 (a)(2)(ii) Amount of money required to be reimbursed to the Judgment Fund by the agency for payments as defined in § 724.102 of subpart A of this part.

No reimbursements were required during the period FY 2006-2011.

§ 724.302 (a)(2)(iii) Amount of reimbursement to the Fund for attorney's fees where such fees have been separately designated.

No reimbursements were required during the period FY 2006-2011.

§ 724.302 (a)(3) In connection with cases identified in paragraph (a)(1) of this section, the total number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part and the specific nature, e.g., reprimand, etc., of the disciplinary actions taken, separated by the provision(s) of law involved.

No employees were disciplined during the time period FY 2006-2011in connection with cases identified in paragraph (a)(1) of this section.

§ 724.302 (a)(4) The final year-end data about discrimination complaints for each fiscal year that was posted in accordance with Equal Employment Opportunity Regulations at subpart G of title 29 of the Code of Federal Regulations (implementing section 301(c)(1)(B) of the No FEAR Act).

See Appendix for the final year-end data as posted on the SEC's public website: www.sec.gov.

§ 724.302 (a)(5) Whether or not in connection with cases in Federal court, the number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part in accordance with any agency policy described in paragraph (a)(6) of this section. The specific nature, e.g., reprimand, etc., of the disciplinary actions taken must be identified.

No employees were disciplined during the period FY 2006-2011 in accordance with the agency policy described in paragraph (a)(6) of this section. (See below.)

§ 724.302 (a)(6) A detailed description of the agency's policy for taking disciplinary action against Federal employees for conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice revealed in connection with agency investigations of alleged violations of these laws.

The SEC implemented its relevant disciplinary policy covering supervisory misconduct in 1990. The policy is part of the SEC's Personnel Operating Policies and Procedures Manual (POPPS) issued as SECR 6-10 in 1990 and distributed throughout the SEC. The "Table of Penalties Involving Employee Misconduct" states:

> 1. The decision logic tables on the following pages may be used as a guide for selecting appropriate penalties in disciplinary actions involving employee misconduct. The tables show the inter-relationships of disciplinary causes and actions, but it does not establish procedural causes and actions, nor does it automatically set penalties. Depending on the circumstances, a penalty may be more or less severe than those listed in the tables. This guide does not presume to cover all possible offenses, however, it does attempt to include most issues that are likely to apply in the Commission. Other factors to be weighed are: character, gravity, recency and consequences of the offense; combination and character of other offenses; mitigating circumstances; length of service; quality of work; personal reputation; past contributions and record of cooperation.

POPPS SECR 6-10, Attachment 3, Nov 12, 1990, at 25 (footnote omitted).

The "decision logic tables" in Attachment 3 at 34-35 list "Causes of Action" with "Typical Penalties."

Offenses Related to Supervisory/Managerial Observance of Employee Rights

21. Sexual Harassment.

22. Discrimination based on race, color, sex, religion, national origin, age, marital status, political affiliation or [disability]

	Typical Penalty
First offense:	Reprimand to removal
Second:	5 day suspension to removal
Third:	30 day suspension to removal

23. Reprisal against employee for providing information to the Office of Inspector General (or equivalent), the Office of Special Counsel, to an EEO Investigator, or for testifying in an official proceeding.

24. Reprisal against an employee for exercising a right provided under 5 U.S.C. § 7101, *et seq.* (governing Federal labor-management relations).

25. Violation of an employee's constitutional right to freedom of speech, association, and religion.

26. Violation of prohibited personnel practices (see attachment 12[1]).

	Typical Penalty
First offense:	Reprimand to removal
Second:	Removal
Third:	Removal

---

§ 724.302 (a)(7) An analysis of the information provided in paragraphs (a)(1) through (6) of this section in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with 29 C.F.R. part 1614 subpart F ... [s]uch analysis must include: -- (i) An examination of trends; (ii) Causal analysis; (iii) Practical knowledge gained through experience; and (iv) Any actions planned or taken to improve complaint or civil rights programs of the agency with the goal of eliminating discrimination and retaliation in the workplace.

Examination of Trends

The SEC is a small agency. The average number of employees during the period covered in this report (FY 2006-2011) was below 4,000. Between FY 2006-2011, the average number of administrative EEO complaints filed annually was 12.8. In FY 2011, there were a total of 10 complaints filed, 9 complainants and 1 repeat filer. Unsuccessful applicants for employment filed 4 of the 10 complaints.

Causal Analysis

With an annual average of only 12.8 complaints filed, the volume of data does not support meaningful conclusions about cause and effect based on the type of employment issues raised or the bases of discrimination alleged. Further, in the cases closed during this 6-year period, there were no findings of discrimination.

In the reported time frame (FY 2006-2011), the five discrimination bases alleged most frequently were: reprisal (39), race (36), age (35), sex (25), and disability (24). In FY 2011, the five discrimination bases alleged most frequently were: age and reprisal (8 each), race and sex (6 each) and disability (5).

In the reported time frame (FY 2006-2011), the six employment issues raised most frequently were: terms and conditions of employment (26), non-sexual harassment (18), assignment of duties and reasonable accommodation (13), appointment/hire (12) and promotion/non-selection (11). In FY 2011, the issues raised in more than one complaint were: terms and conditions of employment and appointment/hire (4 each), non-sexual harassment and "other" (2 each).

Processing Data Overview

The EEOC regulations governing data posted pursuant to Title III of the No FEAR Act limit the case disposition data to the following types: dismissals by the agency, withdrawals by complainants and findings of discrimination. *See* www.sec.gov/eeoinfo/nofeardata.htm.

Agencies are not permitted to post information about decisions on the merits unless discrimination was found and similarly may not post information about the number of EEO administrative complaints

[1] Attachment 12 at POPPS 53-54 summarizes the prohibited personnel practices set forth in the Civil Service Reform Act of 1978, with reference to 5 U.S.C. § 2302.

settled by mutual agreement. *See* 29 C.F.R. § 1614.701, *et seq.* (2009). All complaints closed during the reported time frame were withdrawn, settled or ended in a finding of no discrimination.

During the FY 2006-2011 period, the SEC dismissed 23 complaints and complainants withdrew 5. As noted above, there were no findings of discrimination during the period.

In FY 2011, the average number of days to complete an investigation was 175, down from 199 days in FY 2010. One investigation was completed beyond the applicable regulatory time limits.

At the close of FY 2011, 6 complaints were pending in the administrative process. One complaint was pending in investigation, 2 were pending hearing or disposition at the EEOC and 3 were on appeal at the EEOC's Office of Federal Operations.

Analysis of Data, Practical Knowledge Gained Through Experience, and Actions Planned to Improve Complaint and Civil Rights Programs

As noted above, the number of administrative EEO complaints alleging violations of EEO laws or related Executive Orders is too small to draw conclusions from trend analysis.

§ 724.302 (a)(8) For each fiscal year, any adjustments needed or made to the budget of the agency to comply with its Judgment Fund reimbursement obligation(s) incurred under § 724.103 of this part.

No adjustments were made to the SEC's budget to comply with the requirements under §201.

§ 724.302 (a)(9) The agency's written plan developed under § 724.203(a) of subpart B of this part to train all of its employees (including supervisors and managers) about the rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws applicable to them.

SEC's No FEAR Act Training Plan

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act"), Pub. L. 107-174, mandates that all federal employees be fully informed of their right to be free from employment discrimination and retaliation. In furtherance of that goal, Title II of the No FEAR Act obligates each federal agency to develop training plans to ensure that all employees are aware of their rights and remedies and how to exercise them. OPM regulations 5 C.F.R. § 724.302(a)(9) include a reporting element requiring agencies to include No FEAR Act training plans in the annual No FEAR Act Report. This training plan represents best practices and the current technological capabilities of the SEC. The specific provisions of this plan may be updated and improved. Any substantial changes will be included in the SEC's Annual No FEAR Act Report for FY 2013. Plans to enter into contracts to provide training are contingent upon funding.

Training for New Employees – FY 2011

In FY 2011, new SEC employees who attended orientation classes at the SEC's Headquarters were instructed to read the No FEAR Act notice and verify compliance in writing within the first 30 days after entry on duty. New employees in other locations received the same instructions via emails from administrative officials designated by the SEC's Office of Human Resources as contacts responsible for processing new employees. In addition, the SEC intranet homepage has a prominent link to the page called "Welcome New Employees." That page has a highlighted link at the top directing employees to a page with instructions for meeting mandatory requirements to read the No FEAR Act notice:

> **"No FEAR" Act Notice – Required Reading for New Employees**
>
> Within the first month of starting employment at the SEC, all employees are required to read the "No FEAR Act Notice." It explains important rights and remedies under the federal Equal Employment Opportunity (EEO) Laws and the Whistleblower Protection Act. They must confirm that they have complied with this requirement by following the instructions below the link to the No FEAR Act Notice.

The SEC planned to subscribe to a commercial online No FEAR Act Training course in FY 2010, but did not have sufficient funding. Therefore, the SEC continued to require new employees to read the No FEAR Act notice to be informed of their rights and remedies under EEO and Whistleblower Protection laws. When the Bi-Annual Employee Training described below becomes available, new employees will be directed to take that training.

Bi-Annual Employee Training - FY 2012

The SEC acquired a centralized Learning Management System (LMS) to deliver training, track employee compliance and issue automated notices to employees required to take mandatory training including, but not limited to, No FEAR Act Training. The LMS will be linked to the Federal Personnel and Payroll System. The SEC anticipates having it available for all employees to use during the third quarter of FY 2012. An online No FEAR Act Training module was acquired in FY 2011, to be modified for SEC use by the SEC's Offices of Equal Employment Opportunity and the Inspector General.

Beginning in April 2012, the SEC plans to train all employees on board as of March 31, 2012.

Training in Subsequent Years

The LMS will generate notices of required No FEAR Act Training to employees to ensure that every employee will take No FEAR Act Training within two years of the date the employee last took No FEAR Act Training.

This training plan represents best practices, available funding levels and technological capabilities of the SEC as of March 2012. The specific provisions of this plan may be updated as circumstances change. Any substantial changes will be included in the SEC's Annual No FEAR Act Report for FY 2013.

---

§ 724.302 (9)(c) Agencies must provide copies of each report to the following:

(1) Speaker of the U.S. House of Representatives;

(2) President *Pro Tempore* of the U.S. Senate;

(3) Committee on Governmental Affairs, U.S. Senate;

(4) Committee on Government Reform, U.S. House of Representatives;

(5) Each Committee of Congress with jurisdiction relating to the agency;

(6) Chair, Equal Employment Opportunity Commission;

(7) Attorney General; and

(8) Director, U.S. Office of Personnel Management.

The officials receiving the FY 2011 report are identified on the following page.

§ 724.302 (9)(c)(1) Speaker of the U.S. House of Representatives:

The Honorable John Boehner, Speaker of the House
U.S. House of Representatives,
H-232, Capitol Building
Washington, DC 20515

§ 724.302 (9)(c)(2) President *Pro Tempore* of the U.S. Senate:

The Honorable Sen. Daniel K. Inouye,
President *Pro Tempore*
United States Senate
S-126, Capitol Building
Washington, DC 20510

§ 724.302 (9)(c)(3) Committee on Homeland Security and Governmental Affairs, U.S. Senate:

The Honorable Joseph Lieberman, Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Susan Collins, Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
344 Dirksen Senate Office Building
Washington, DC 20510

§ 724.302 (9)(c)(4) Committee on Government Reform, U.S. House of Representatives:

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah Cummings, Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
2471 Rayburn House Office Building
Washington, DC 20515

§ 724.302 (9)(c)(5) Committees of Congress with jurisdiction relating to the SEC:

The Honorable Spencer Bachus, Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Barney Frank, Ranking Member
Committee on Financial Services
U.S. House of Representatives
B301C Rayburn House Office Building
Washington, DC 20515

The Honorable Tim Johnson, Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirsken Senate Office Building
Washington, DC 20510

The Honorable Richard Shelby, Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirsken Senate Office Building
Washington, DC 20510

§ 724.302 (9)(c)(6) Chair, Equal Employment Opportunity Commission:

Jacqueline A. Berrien, Chair
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

§ 724.302 (9)(c)(7) United States Attorney General:

Eric H. Holder, Jr., Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

§ 724.302 (9)(c)(c)(8) Director, U.S. Office of Personnel Management:

The Honorable John Berry, Director
U.S. Office of Personnel Management
1900 E Street NW
Washington, DC 20415

Equal Employment Opportunity Data Posted Pursuant to the No Fear Act:

U.S. Securities and Exchange Commission

For 4th Quarter 2011 for period ending September 30, 2011

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					10/1/10-09/30/11
	2006	2007	2008	2009	2010	
Number of Complaints Filed	13	11	11	15	17	10
Number of Complainants	13	9	10	14	16	9
Repeat Filers	1	2	1	1	1	1

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					10/1/10-09/30/11
Note: Complaints can be filed alleging multiple bases.The sum of the bases may not equal total complaints filed.	2006	2007	2008	2009	2010	
Race	5	10	4	3	8	6
Color	0	2	1	1	3	1
Religion	0	0	2	1	3	2
Reprisal	6	4	5	9	7	8
Sex	3	4	3	5	4	6
National Origin	20	0	2	0	2	1
Equal Pay Act	1	1	0	2	0	0

Age	6	6	2	6	7	8
Disability	3	1	3	7	5	5
Non-EEO	0	1	1	1	2	0

Complaints by Issue	**Comparative Data**					
	Previous Fiscal Year Data					
Note: Complaints can be filed alleging multiple bases.The sum of the bases may not equal total complaints filed.	**2006**	**2007**	**2008**	**2009**	**2010**	**10/1/10-09/30/11**
Appointment/Hire	0	1	0	4	3	4
Assignment of Duties	1	5	0	3	3	1
Awards	1	0	0	1	2	0
Conversion to Full-time	0	0	0	0	0	0
Disciplinary Action						
Demotion	0	0	0	0	0	0
Reprimand	0	0	0	2	0	1
Suspension	1	0	0	1	1	0
Removal	1	0	1	0	0	0
Other	0	1	1	0	1	0
Duty Hours	0	0	0	0	0	1
Evaluation Appraisal	1	1	0	2	4	0
Examination/Test	0	0	0	0	0	0
Harassment						
Non-Sexual	3	3	2	5	3	2
Sexual	0	0	0	1	1	0
Medical Examination	0	0	0	0	0	0

Pay (Including Overtime)	3	2	0	2	0	0
Promotion/Non-Selection	3	2	2	1	2	1
Reassignment						
Denied	0	0	0	0	0	0
Directed	0	0	0	0	0	1
Reasonable Accommodation	1	0	3	5	3	1
Reinstatement	0	0	0	0	0	0
Retirement	0	0	0	1	0	1
Termination	0	0	2	1	2	1
Terms/Conditions of Employment	1	6	2	9	4	4
Time and Attendance	0	3	1	4	0	1
Training	0	0	0	1	1	0
Other	0	2	1	2	1	2

Processing Time	**Comparative Data**					
	Previous Fiscal Year Data					**10/1/10-09/30/11**
	2006	**2007**	**2008**	**2009**	**2010**	
Complaints pending during fiscal year						
Average number of days in investigation	176	124	191	194	199.1	175.00
Average number of days in final action	71	83	80	58	132.44	205.57
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	178	197	191	194	210.44	0
Average number of days in final action	13	30	59	58	15.00	0
Complaint pending during fiscal year where hearing was not requested						

Average number of days in investigation	176	243	170	187	193.15	175.00
Average number of days in final action	86	99	42	NA	166.00	205.57

Complaints Dismissed by Agency	Comparative Data					
	Previous Fiscal Year Data					10/1/10-09/30/11
	2006	2007	2008	2009	2010	
Total Complaints Dismissed by Agency	4	4	1	3	7	4
Average days pending prior to dismissal	77	95	21	120	158	41

Complaints Withdrawn by Complainants						
Total Complaints Withdrawn by Complainants	1	1	0	0	1	2

Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data										10/1/10-09/30/11	
	2006		2007		2008		2009		2010			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		0		0	
Without Hearing	0	0	0	0	0	0	0	0	0	0	0	0
With Hearing	0	0	0	0	0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data					
	Previous Fiscal Year Data					10/1/10-09/30/11
	2006	2007	2008	2009	2010	
Total complaints from previous Fiscal Years	17	15	5	12	14	13
Total Complainants	NA	14	5	11	13	11
Number complaints pending						

Investigation	3	0	8	10	0	1
ROI issued, pending Complainant's action	0	0	0	0	0	0
Hearing	9	1	3	4	4	2
Final Agency Action	3	0	1	0	1	0
Appeal with EEOC Office of Federal Operations	3	4	2	0	2	3

Complaint Investigations	**Comparative Data**					
	Previous Fiscal Year Data					**10/1/10-09/30/11**
	2006	**2007**	**2008**	**2009**	**2010**	
Pending Complaints Where Investigations Exceed Required Time Frames	1	1	1	1	0	2

Non Responsive

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

September 7, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Johnson:

Section 939(h)(1) of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") directs the Commission to study the feasibility and desirability of: (1) standardizing credit rating terminology, so that all credit rating agencies issue credit ratings using identical terms; (2) standardizing the market stress conditions under which ratings are evaluated; (3) requiring a quantitative correspondence between credit ratings and a range of default probabilities and loss expectations under standardized conditions of economic stress; and (4) standardizing credit rating terminology across asset classes, so that named ratings correspond to a standard range of default probabilities and expected losses independent of asset class and issuing entity.

Section 939(h)(2) of the Dodd-Frank Act directs the Commission to submit to Congress a report containing the findings of the study and any Commission recommendations.

Enclosed please find a copy of the study mandated by Section 939(h). Please contact me at (b)(6) if you have any questions regarding this matter.

Sincerely,

Timothy B. Henseler
Acting Director

Enclosure

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

September 7, 2012

The Honorable Richard Shelby
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Shelby:

Section 939(h)(1) of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") directs the Commission to study the feasibility and desirability of: (1) standardizing credit rating terminology, so that all credit rating agencies issue credit ratings using identical terms; (2) standardizing the market stress conditions under which ratings are evaluated; (3) requiring a quantitative correspondence between credit ratings and a range of default probabilities and loss expectations under standardized conditions of economic stress; and (4) standardizing credit rating terminology across asset classes, so that named ratings correspond to a standard range of default probabilities and expected losses independent of asset class and issuing entity.

Section 939(h)(2) of the Dodd-Frank Act directs the Commission to submit to Congress a report containing the findings of the study and any Commission recommendations.

Enclosed please find a copy of the study mandated by Section 939(h). Please contact me at (b)(6) if you have any questions regarding this matter.

Sincerely,

Timothy B. Henseler
Acting Director

Enclosure

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

September 7, 2012

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
U.S. House of Representatives
B301C Rayburn House Office Building
Washington, DC 20515

Dear Representative Frank:

Section 939(h)(1) of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") directs the Commission to study the feasibility and desirability of: (1) standardizing credit rating terminology, so that all credit rating agencies issue credit ratings using identical terms; (2) standardizing the market stress conditions under which ratings are evaluated; (3) requiring a quantitative correspondence between credit ratings and a range of default probabilities and loss expectations under standardized conditions of economic stress; and (4) standardizing credit rating terminology across asset classes, so that named ratings correspond to a standard range of default probabilities and expected losses independent of asset class and issuing entity.

Section 939(h)(2) of the Dodd-Frank Act directs the Commission to submit to Congress a report containing the findings of the study and any Commission recommendations.

Enclosed please find a copy of the study mandated by Section 939(h). Please contact me at (b)(6) if you have any questions regarding this matter.

Sincerely,

Timothy B. Henseler
Acting Director

Enclosure

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

September 7, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Bachus:

Section 939(h)(1) of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") directs the Commission to study the feasibility and desirability of: (1) standardizing credit rating terminology, so that all credit rating agencies issue credit ratings using identical terms; (2) standardizing the market stress conditions under which ratings are evaluated; (3) requiring a quantitative correspondence between credit ratings and a range of default probabilities and loss expectations under standardized conditions of economic stress; and (4) standardizing credit rating terminology across asset classes, so that named ratings correspond to a standard range of default probabilities and expected losses independent of asset class and issuing entity.

Section 939(h)(2) of the Dodd-Frank Act directs the Commission to submit to Congress a report containing the findings of the study and any Commission recommendations.

Enclosed please find a copy of the study mandated by Section 939(h). Please contact me at (b)(6) if you have any questions regarding this matter.

Sincerely,

Timothy B. Henseler
Acting Director

Enclosure

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

THE CHAIRMAN

December 13, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets, Insurance
and Government Sponsored Enterprises
Committee on Financial Services
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Bachus and Garrett:

The SEC's Office of the Inspector General (OIG) has completed its Semiannual Report for the period April 1, 2012 through September 30, 2012. On behalf of the Commission, I am providing the appropriate congressional committees with that report as required by law, along with a separate Management Report containing comments on certain portions of the report and certain required information.

The Commission appreciates the OIG for its independent review of our programs. We are committed to working cooperatively with that office and providing it with the appropriate and necessary administrative and management support. The OIG has provided recommendations to help the agency improve its performance, and we are implementing those recommendations as resources permit.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

Enclosures

Office of the Comptroller of the Currency
Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission

March 18, 2013

The Honorable Spencer Bachus
Chairman Emeritus
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

Dear Chairmen Bachus and Hensarling:

This correspondence is in response to your letter regarding section 619 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. As you know, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (collectively, "the Agencies") previously proposed rules to implement section 619.

The proposed rules invited comment on a multi-faceted regulatory framework to implement the statute consistent with the statutory language. In addition, the Agencies invited comments on the potential economic impacts of the proposed rule and posed a number of questions seeking information on the costs and benefits associated with each aspect of the proposal, as well as on any significant alternatives that would minimize the burdens or amplify the benefits of the proposal. The Agencies also encouraged commenters to provide quantitative information and data about the impact of the proposal not only on entities subject to section 619, but also on their clients, customers, and counterparties, specific markets or asset classes, and any other entities potentially affected by the proposed rule, including non-financial small and mid-size businesses. The Agencies received more than 18,000 comments regarding the proposed implementing rules and are carefully considering these comments as we work toward development of final rules.

As noted in your letter, by its terms, section 619 became effective on July 21, 2012. As provided by section 619, the Federal Reserve, in consultation with the other Agencies, issued rules governing the period for conforming with section 619 ("Conformance Rule") and, along with the other Agencies, indicated that banking entities are expected to fully conform their activities to the statutory provisions and any final agency rules by the end of the statutory compliance period, which is July 21, 2014 unless extended by the Federal Reserve. The Federal Reserve also explained that it would revisit the Conformance Rule, as necessary, in light of the requirements of the final rules implementing the substantive provisions of section 619. In

doing so, the Federal Reserve will carefully consider your suggestions to extend the conformance period.

The Agencies continue to devote significant time and resources to reviewing the comments submitted during the rulemaking process and developing final rules consistent with the statutory language. To ensure, to the extent possible, that the rules implementing section 619 are comparable and provide for consistent application, the Agencies have been regularly consulting with each other and will continue to do so.

We will carefully consider the issues you note, including the economic impact of any implementing rules, as we continue to develop final rules consistent with the requirements of section 619.

Sincerely,

Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System

Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation

Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency

Elisse B. Walter
Chairman
Securities and Exchange Commission

Gary Gensler
Chairman
Commodity Futures Trading Commission

Office of the Comptroller of the Currency
Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission

March 18, 2013

The Honorable Spencer Bachus
Chairman Emeritus
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

Dear Chairmen Bachus and Hensarling:

This correspondence is in response to your letter regarding section 619 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. As you know, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (collectively, "the Agencies") previously proposed rules to implement section 619.

The proposed rules invited comment on a multi-faceted regulatory framework to implement the statute consistent with the statutory language. In addition, the Agencies invited comments on the potential economic impacts of the proposed rule and posed a number of questions seeking information on the costs and benefits associated with each aspect of the proposal, as well as on any significant alternatives that would minimize the burdens or amplify the benefits of the proposal. The Agencies also encouraged commenters to provide quantitative information and data about the impact of the proposal not only on entities subject to section 619, but also on their clients, customers, and counterparties, specific markets or asset classes, and any other entities potentially affected by the proposed rule, including non-financial small and mid-size businesses. The Agencies received more than 18,000 comments regarding the proposed implementing rules and are carefully considering these comments as we work toward development of final rules.

As noted in your letter, by its terms, section 619 became effective on July 21, 2012. As provided by section 619, the Federal Reserve, in consultation with the other Agencies, issued rules governing the period for conforming with section 619 ("Conformance Rule") and, along with the other Agencies, indicated that banking entities are expected to fully conform their activities to the statutory provisions and any final agency rules by the end of the statutory compliance period, which is July 21, 2014 unless extended by the Federal Reserve. The Federal Reserve also explained that it would revisit the Conformance Rule, as necessary, in light of the requirements of the final rules implementing the substantive provisions of section 619. In

The Honorable Spencer Bachus
The Honorable Jeb Hensarling
Page Two

doing so, the Federal Reserve will carefully consider your suggestions to extend the conformance period.

The Agencies continue to devote significant time and resources to reviewing the comments submitted during the rulemaking process and developing final rules consistent with the statutory language. To ensure, to the extent possible, that the rules implementing section 619 are comparable and provide for consistent application, the Agencies have been regularly consulting with each other and will continue to do so.

We will carefully consider the issues you note, including the economic impact of any implementing rules, as we continue to develop final rules consistent with the requirements of section 619.

Sincerely,

Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System

Martin J. Gruenberg
Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation

Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency

Elisse B. Walter
Elisse B. Walter
Chairman
Securities and Exchange Commission

Gary Gensler
Chairman
Commodity Futures Trading Commission

Non Responsive

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

OFFICE OF
FINANCIAL MANAGEMENT

October 31, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Subject: Securities and Exchange Commission Investor Protection Fund-- Financial Statement Audit

Dear Chairman Johnson:

This letter is to describe how the Securities and Exchange Commission plans to implement certain reporting requirements related to the Investor Protection Fund (IPF).

By way of background, Section 21F(g)(5)(G) of the U.S. Securities Exchange Act of 1934 (Exchange Act), as amended by Section 922 of the Dodd-Frank Act, requires that an Annual Report of the Whistleblower Program, to include audited financial statements of the Investor Protection Fund (IPF), be provided to Congress "not later than October 30 of each fiscal year." The IPF is a fund within the SEC reporting entity, and its financial transactions are included in SEC's overall financial reporting.

However, this October 30 reporting deadline for the IPF is approximately two weeks before the November 15 deadline for releasing audited financial statements for the entire SEC reporting entity, in accordance with the Accountability for Tax Dollars Act and OMB Circular A-136, *Financial Reporting Requirements*. Given the IPF is an integral part of the Commission's consolidated financial statements, we have asked GAO, the SEC's external auditors, to also audit the IPF's standalone financial statements. GAO has agreed to conduct the audit of the IPF. However, GAO has expressed a concern to management regarding the differences in report dates. Specifically, GAO is concerned about issuing an opinion on a fund within the financial statements prior to completing the actual consolidated financial statement audit.

Additionally, aligning the deadlines and the audit processes for these two requirements would result in time savings to the SEC and its external auditors (GAO), and more importantly, cost savings to the public. Therefore, our intention is to provide the audited IPF statements at the same time, and in the same report (the agency's annual Agency Financial Report) as those for the Commission, on or around November 15 of each year. Additionally, as the audited financial statements of the IPF are a required part of the Annual Report of the Whistleblower Program, the Annual Report will be submitted to Congress no later than November 15 of each year.

If you or your staff has any questions concerning this letter, please contact me at (b)(6) (b)(6) or Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs at (b)(6)

Sincerely,

Kenneth A. Johnson
Chief Financial Officer

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

OFFICE OF
FINANCIAL MANAGEMENT

October 31, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Subject: Securities and Exchange Commission Investor Protection Fund-- Financial Statement Audit

Dear Chairman Bachus:

This letter is to describe how the Securities and Exchange Commission plans to implement certain reporting requirements related to the Investor Protection Fund (IPF).

By way of background, Section 21F(g)(5)(G) of the U.S. Securities Exchange Act of 1934 (Exchange Act), as amended by Section 922 of the Dodd-Frank Act, requires that an Annual Report of the Whistleblower Program, to include audited financial statements of the Investor Protection Fund (IPF), be provided to Congress "not later than October 30 of each fiscal year." The IPF is a fund within the SEC reporting entity, and its financial transactions are included in SEC's overall financial reporting.

However, this October 30 reporting deadline for the IPF is approximately two weeks before the November 15 deadline for releasing audited financial statements for the entire SEC reporting entity, in accordance with the Accountability for Tax Dollars Act and OMB Circular A-136, *Financial Reporting Requirements*. Given the IPF is an integral part of the Commission's consolidated financial statements, we have asked GAO, the SEC's external auditors, to also audit the IPF's standalone financial statements. GAO has agreed to conduct the audit of the IPF. However, GAO has expressed a concern to management regarding the differences in report dates. Specifically, GAO is concerned about issuing an opinion on a fund within the financial statements prior to completing the actual consolidated financial statement audit.

Additionally, aligning the deadlines and the audit processes for these two requirements would result in time savings to the SEC and its external auditors (GAO), and more importantly, cost savings to the public. Therefore, our intention is to provide the audited IPF statements at the same time, and in the same report (the agency's annual Agency Financial Report) as those for the Commission, on or around November 15 of each year. Additionally, as the audited financial statements of the IPF are a required part of the Annual Report of the Whistleblower Program, the Annual Report will be submitted to Congress no later than November 15 of each year.

If you or your staff has any questions concerning this letter, please contact me at (b)(6) (b)(6) or Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs at (b)(6)

Sincerely,

Kenneth A. Johnson
Chief Financial Officer

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

OFFICE OF
FINANCIAL MANAGEMENT

October 31, 2012

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
U.S. House of Representatives
B301C Rayburn House Office Building
Washington, DC 20515

Subject: Securities and Exchange Commission Investor Protection Fund-- Financial Statement Audit

Dear Representative Frank:

This letter is to describe how the Securities and Exchange Commission plans to implement certain reporting requirements related to the Investor Protection Fund (IPF).

By way of background, Section 21F(g)(5)(G) of the U.S. Securities Exchange Act of 1934 (Exchange Act), as amended by Section 922 of the Dodd-Frank Act, requires that an Annual Report of the Whistleblower Program, to include audited financial statements of the Investor Protection Fund (IPF), be provided to Congress "not later than October 30 of each fiscal year." The IPF is a fund within the SEC reporting entity, and its financial transactions are included in SEC's overall financial reporting.

However, this October 30 reporting deadline for the IPF is approximately two weeks before the November 15 deadline for releasing audited financial statements for the entire SEC reporting entity, in accordance with the Accountability for Tax Dollars Act and OMB Circular A-136, *Financial Reporting Requirements*. Given the IPF is an integral part of the Commission's consolidated financial statements, we have asked GAO, the SEC's external auditors, to also audit the IPF's standalone financial statements. GAO has agreed to conduct the audit of the IPF. However, GAO has expressed a concern to management regarding the differences in report dates. Specifically, GAO is concerned about issuing an opinion on a fund within the financial statements prior to completing the actual consolidated financial statement audit.

Additionally, aligning the deadlines and the audit processes for these two requirements would result in time savings to the SEC and its external auditors (GAO), and more importantly, cost savings to the public. Therefore, our intention is to provide the audited IPF statements at the same time, and in the same report (the agency's annual Agency Financial Report) as those for the Commission, on or around November 15 of each year. Additionally, as the audited financial statements of the IPF are a required part of the Annual Report of the Whistleblower Program, the Annual Report will be submitted to Congress no later than November 15 of each year.

If you or your staff has any questions concerning this letter, please contact me at (b)(6) (b)(6) or Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs at (b)(6)

Sincerely,

Kenneth A. Johnson
Chief Financial Officer

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

OFFICE OF
FINANCIAL MANAGEMENT

October 31, 2012

The Honorable Richard Shelby
Ranking Member
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Subject: Securities and Exchange Commission Investor Protection Fund-- Financial Statement Audit

Dear Senator Shelby:

This letter is to describe how the Securities and Exchange Commission plans to implement certain reporting requirements related to the Investor Protection Fund (IPF).

By way of background, Section 21F(g)(5)(G) of the U.S. Securities Exchange Act of 1934 (Exchange Act), as amended by Section 922 of the Dodd-Frank Act, requires that an Annual Report of the Whistleblower Program, to include audited financial statements of the Investor Protection Fund (IPF), be provided to Congress "not later than October 30 of each fiscal year." The IPF is a fund within the SEC reporting entity, and its financial transactions are included in SEC's overall financial reporting.

However, this October 30 reporting deadline for the IPF is approximately two weeks before the November 15 deadline for releasing audited financial statements for the entire SEC reporting entity, in accordance with the Accountability for Tax Dollars Act and OMB Circular A-136, *Financial Reporting Requirements*. Given the IPF is an integral part of the Commission's consolidated financial statements, we have asked GAO, the SEC's external auditors, to also audit the IPF's standalone financial statements. GAO has agreed to conduct the audit of the IPF. However, GAO has expressed a concern to management regarding the differences in report dates. Specifically, GAO is concerned about issuing an opinion on a fund within the financial statements prior to completing the actual consolidated financial statement audit.

Additionally, aligning the deadlines and the audit processes for these two requirements would result in time savings to the SEC and its external auditors (GAO), and more importantly, cost savings to the public. Therefore, our intention is to provide the audited IPF statements at the same time, and in the same report (the agency's annual Agency Financial Report) as those for the Commission, on or around November 15 of each year. Additionally, as the audited financial statements of the IPF are a required part of the Annual Report of the Whistleblower Program, the Annual Report will be submitted to Congress no later than November 15 of each year.

If you or your staff has any questions concerning this letter, please contact me at (b)(6) (b)(6) or Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs at (b)(6)

Sincerely,

Kenneth A. Johnson
Chief Financial Officer

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

THE CHAIRMAN

February 10, 2012

The Honorable Michael D. Crapo
United States Senate
239 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Crapo:

Thank you for your recent inquiry with respect to the Commission's consideration of alternatives to the May 2010 consolidated audit trail ("CAT") rule proposal.

Currently, approximately 10 billion shares trade hands every day in the U.S. equity markets, the product of some 34 million trades and an even greater number of orders. Despite this huge volume of daily trades and orders, there is not a single automated system to collect and normalize data across the various trading venues, products, and market participants. Instead of a comprehensive audit trail available to securities regulators, each registered securities exchange and the Financial Industry Regulatory Authority ("FINRA") (collectively, the "SROs") maintains its own limited audit trail.

As a result, it has become increasingly challenging for regulators to oversee the U.S. securities markets. Regulatory authorities encounter difficulties and delays in obtaining and reconciling even the limited order and execution data that is available, thereby hindering the conduct of market surveillance, investigations and enforcement activities, and market reconstructions and analyses. For example, regulators reconstructing an unusual event, such as the May 6 market disruption, must obtain and merge a large volume of disparate data from a number of different markets. Investigations of suspicious activity face similar problems. The data from SRO audit trails will reveal the broker who traded a security, but not the identity of the broker's customer, as the SROs do not collect such information. To obtain such individual trader information from broker-dealers through the existing Electronic Blue Sheets system, the Commission must make a series of requests that can take days or even weeks to fulfill. The CAT proposal was designed to address these deficiencies to permit regulators to ultimately track trade data across multiple markets, securities, and participants simultaneously.

As you know, the Commission sought extensive public comments in connection with the CAT proposal. Among other things, the proposal sought commenters' views on the costs and benefits of all aspects of the proposal, as well as comment on whether alternative approaches to implementing the CAT would provide greater benefits or involve fewer costs. In response, dozens of commenters – including SROs, trading venues, broker-dealers, technology providers, and trade-industry groups – submitted their views on a variety of aspects of the release. The Commission continues to receive and consider comments regarding the proposal. Commissioners and staff also have met with a large number of interested parties over the past year and a half.

You have asked about the role of our staff in the Division of Risk, Strategy and Financial Innovation ("RSFI") regarding the CAT rulemaking. Since the proposal, RSFI staff, as part of a cross-agency staff working group that includes staff from our Division of Trading and Markets, have been considering and evaluating the comments, with a particular focus on the alternative approaches proposed by commenters on significant issues. For example, the comments address such issues as the costs and benefits of the proposal, alternative deadlines for when data must be submitted, what customer and other trade and order information items must be reported to the CAT, how such information should be collected and handled, and how existing audit trails could be used to help build or inform the CAT. The staff's analysis is focused on a number of variables, including reporting deadlines, the mechanics of tracking orders, and the process by which SROs would execute the next stage of the CAT implementation process. Our economic analysis will address the effect on efficiency, competition and capital formation of an adopted rule, and both it and the bases for the Commission's decisions will be published with any adopting release that is issued.

As you may know, the adoption of a final rule to establish the CAT would complete only the first step in a lengthy implementation process that would involve further careful consideration of the costs and benefits of the chosen approach as it is better defined. Specifically, if a rule is adopted, it is anticipated that the SROs ultimately would be required to produce a joint national market system plan, consistent with broad parameters approved by the Commission, to create, implement, and maintain the CAT. Any such plan would be subject to public comment, and also would be subject to the review and, if warranted, approval of the Commission following such comment. The Commission and staff would carefully consider comments pertaining to the anticipated costs and benefits of any detailed plan developed by the SROs pursuant to any final rule adopted by the Commission.

With respect to the issue of real-time reporting, commenters have provided varied perspectives on the magnitude, nature, and source of the cost of such reporting. Issues identified include concerns about the accuracy of real-time data, concerns about significant up-front costs associated with a conversion to real-time reporting, and concerns about the ongoing costs of monitoring the real-time connection and retransmitting data when the connection is lost. Based upon this input, I personally believe that very substantial benefits can be achieved from a CAT that does not require real-time reporting. The staff is carefully considering the need for real-time reporting at this time and is mindful that the benefits of a real-time system must be compared to the potentially significant cost of creating and maintaining one.

Thank you for your interest in the CAT proposal. If you have any questions or would like to further discuss this letter, please feel free to contact me at (202) 551-2100, or have your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

January 30, 2013

The Honorable Michael D. Crapo
United States Senate
239 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Crapo:

Thank you for your December 19, 2012 letter concerning the proposals of the prudential regulators, the CFTC, and the Commission under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that would establish margin requirements for non-cleared swaps and security-based swaps. You note that, before adopting any final rules based on international standards, it is critical that U.S. regulators provide U.S. market participants and the public with a further opportunity to comment on any material changes to the original rule proposals.

The Commission's proposed margin requirements for non-cleared security-based swaps were published for comment on October 17, 2012, after the July 2012 publication of the consultative paper by the Working Group on Margin Requirements (WGMR) formed in response to the G-20's call for international consistency in margin requirements. The Commission referenced the WGMR consultative paper in the proposing release. In addition, the Commission proposed two alternatives for dealer-to-dealer margin to elicit comment on an approach in the WGMR consultative paper. The first alternative would require security-based swap dealers to collect variation, but not initial, margin in transactions with other dealers. The second alternative would require security-based swap dealers to collect both initial and variation margin, and hold the initial margin at an independent third party. The Commission proposed these alternatives in order to elicit detailed comment on each approach and how they would meet the goals of the Dodd-Frank Act, result in benefits and costs, and impact the security-based swap markets and the participants in those markets.

We welcome public comment on these alternatives and other issues that may arise in connection with the WGMR process. The comment period for the current proposal ends on February 22, 2013. We also will seek to work closely with our fellow regulators as we continue to participate in the WGMR process and advance our rulemaking.

As you may know, the Commission also intends to publish a comprehensive release seeking public comment on the full spectrum of issues relating to the application of Title VII of the Dodd-Frank Act to security-based swap transactions in a cross-border context. This approach will provide market participants, foreign regulators, and other interested parties with an opportunity to consider, as an integrated whole, the proposed approach to the cross-border application of Title VII, including the application of capital, margin, and segregation requirements.

I appreciate receiving your views on these important issues. Your letter will be included in the comment file for the proposed capital, margin, and segregation rules for security-based swap dealers and major security-based swap participants. Please contact me at (202) 551-2100, or have your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] for further assistance.

Sincerely,

Elisse B. Walter

Elisse B. Walter
Chairman

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

THE CHAIR

June 26, 2013

The Honorable Mike Crapo
United States Senate
239 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Crapo:

Thank you for your May 17, 2013 letter requesting that the Commission extend the deadline for comments on proposed Regulation Systems Compliance and Integrity by at least 90 days. As you state in your letter, several market participants have similarly requested that the Commission extend the comment period for proposed Regulation SCI.

The Commission carefully considered these extension requests and on May 20, 2013 determined to extend the comment period for proposed Regulation SCI for an additional 45 days, until July 8, 2013. Enclosed is a copy of the Commission's release formally extending the proposed Regulation SCI comment period from 60 days to a total of 105 days.

I agree that proposed Regulation SCI seeks to address many important market integrity, resiliency and security issues, and warrants careful consideration. As indicated in the enclosed release, the Commission believes that the extended 105-day comment period should provide the public with sufficient additional time to consider the matters addressed by proposed Regulation SCI and to submit comments to the proposal that will benefit the Commission in its consideration of the final rule.

Thank you for sharing your views on this matter. Please contact me at (202) 551-2100, or have your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any questions or comments.

Sincerely,

Mary Jo White
Chair

Enclosure

SECURITIES AND EXCHANGE COMMISSION

17 CFR PARTS 242 AND 249

[Release No. 34-69606; File No. S7-01-13]

RIN 3235-AL43

Regulation Systems Compliance and Integrity

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule, form, and rule amendment; extension of comment period.

SUMMARY: On March 25, 2013, the Securities and Exchange Commission ("Commission") published in the Federal Register a proposed rule, Regulation Systems Compliance and Integrity ("Regulation SCI") under the Securities Exchange Act of 1934, for public comment. Proposed Regulation SCI would apply to certain self-regulatory organizations (including registered clearing agencies), alternative trading systems ("ATSs"), plan processors, and exempt clearing agencies subject to the Commission's Automation Review Policy (collectively, "SCI entities"), and would require these SCI entities to comply with requirements with respect to their automated systems that support the performance of their regulated activities. The Commission is extending the time period in which to provide the Commission with comments.

DATES: Comments should be received on or before July 8, 2013.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/proposed.shtml);
- Send an email to rule-comments@sec.gov. Please include File Number S7-01-13 on the subject line; or

- Use the Federal eRulemaking Portal (http://www.regulations.gov). Follow the instructions for submitting comments.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-01-13. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/proposed). Comments will also be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Heidi Pilpel, Special Counsel, Office of Market Supervision, at (202) 551-5666, Sara Hawkins, Special Counsel, Office of Market Supervision, at (202) 551-5523, Jonathan Balcom, Special Counsel, Office of Market Supervision, at (202) 551-5737, Yue Ding, Attorney, Office of Market Supervision, at (202) 551-5842, Dhawal Sharma, Attorney, Office of Market Supervision, at (202) 551-5779, Elizabeth C. Badawy, Senior Accountant, Office of Market Supervision, at (202) 551-5612, and Gordon Fuller, Senior Special Counsel, Office of Market Operations, at (202) 551-5686, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-7010.

SUPPLEMENTARY INFORMATION: On March 7, 2013, the Commission voted to propose Regulation SCI and solicit comment on a proposed rule and form, as well as an amendment to Regulation ATS,[1] that would require SCI entities to comply with requirements with respect to their automated systems that support the performance of their regulated activities. The Commission originally requested that comments on this proposal be received by May 24, 2013. The Commission has recently received requests to extend the comment period and believes that extending the comment period is appropriate in order to give the public additional time to comment on the matters addressed by the release.[2] This extension will allow for 105 days of comment, which the Commission believes should provide the public with sufficient additional time to consider thoroughly the matters addressed by proposed Regulation SCI and to submit comprehensive responses to the proposal which would benefit the Commission in its consideration of the final rules. Therefore, the Commission is extending the public comment period for 45 days, until Monday, July 8, 2013.

By the Commission.

Elizabeth M. Murphy
Secretary

Date: May 20, 2013

---

1 See Securities Exchange Act Release No. 69077 (March 8, 2013), 78 FR 18084 (March 25, 2013).

2 See Letters from Theodore R. Lazo, Managing Director & Associate General Counsel, SIFMA, to Elizabeth M. Murphy, Secretary, Commission, dated April 25, 2013; Manisha Kimmel, Executive Director, Financial Information Forum, to Elizabeth M. Murphy, Secretary, Commission, dated May 7, 2013; and David T. Bellaire, Esq., Executive Vice President and General Counsel, Financial Services Institute, dated May 15, 2013.

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

THE CHAIRMAN

April 30, 2013

The Honorable Mike Crapo
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Ranking Member Crapo:

This is to confirm that (b)(6) will be detailed to your staff of the Senate Banking Committee for a period not to exceed six months beginning on May 8, 2013, with a right to extend the detail for one additional term of six months if mutually agreeable by all parties. The detail will be governed by a Non-Reimbursable Detail Agreement that I understand Commission staff has been discussing with your staff.

Should you need any additional information, please contact me at (202) 551-2100, or have your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary Jo White
Chair

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

THE CHAIRMAN

July 9, 2012

The Honorable Mike Crapo
United States Senate
239 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Crapo:

Thank you for your June 19, 2012 letter concerning the premium capture cash reserve account and the definition of "qualified residential mortgage" in the proposed rules that would establish risk retention requirements under section 941(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The notice of proposed rulemaking includes many requests for comment on the proposal, and all the agencies specifically requested the public's input on the exception for qualified residential mortgages from any credit risk retention requirement and whether there are alternative methodologies that would better achieve the purpose of the premium capture cash reserve account, which is intended to prevent sponsors from structuring around the minimum five percent risk retention requirement.

The comment period on the proposed rules formally ended August 1, 2011, and the Commission and staff continue to work cooperatively with the other agencies to develop final regulations that would effectively implement all aspects of section 941(b) in a manner consistent with the language and purposes of that section. We will carefully consider your comments as we move forward with this interagency rulemaking process.

Again, thank you for your input. Your comments will be included in the public comment file for the rulemaking, which is available on the Commission's website. Please do not hesitate to contact me, or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if we can be of further assistance.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

April 9, 2012

The Honorable Mike Crapo
United States Senate
239 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Crapo:

Thank you for your February 16, 2012 letter regarding the rulemaking proposed by the Commission, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation to implement section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Better known as the "Volcker Rule," section 619 imposes, among other things, restrictions on bank investments in hedge funds and other types of privately offered funds.

In your letter, you express concern that the Volcker Rule could apply to wholly owned subsidiaries and joint ventures used by banks to engage in ordinary course lending and other activities. You correctly note that the proposed rule does not exempt these types of entities and corporate structures from the definition of "covered fund," which would result in limitations on certain relationships between these funds and banks that sponsor or invest in them. The rules proposed by the Commission and the other financial regulators followed closely the approach of section 619 set forth by Congress. We recognize the importance of defining "covered fund" and of providing exemptions from the general prohibitions in a manner that appropriately reflects the intended scope of section 619. The Commission has received extensive comment on the scope of the proposed rule and the extent to which it should track the statute. We are currently reviewing the comments on the potential scope and impact of this approach.

Your letter also provides views on a number of other elements of the proposed regulations, and I have asked Commission staff to include your letter in the public comment file for this proposed rulemaking.

Thank you again for your letter. Please call me at (202) 551-2100, or have your staff call Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) (b)(6) if you have any questions or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

December 13, 2012

The Honorable Mike Crapo
Ranking Member
Subcommittee on Securities, Insurance, and Investment
Committee on Banking, Housing, and Urban Affairs
United States Senate
239 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Ranking Member Crapo:

The SEC's Office of the Inspector General (OIG) has completed its Semiannual Report for the period April 1, 2012 through September 30, 2012. On behalf of the Commission, I am providing the appropriate congressional committees with that report as required by law, along with a separate Management Report containing comments on certain portions of the report and certain required information.

The Commission appreciates the OIG for its independent review of our programs. We are committed to working cooperatively with that office and providing it with the appropriate and necessary administrative and management support. The OIG has provided recommendations to help the agency improve its performance, and we are implementing those recommendations as resources permit.

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

Enclosures

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

THE CHAIRMAN

April 20, 2012

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets
and Government Sponsored Enterprises
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Garrett:

Thank you for your March 26, 2012 letter concerning the premium capture cash reserve account requirement in the rules proposed jointly by the Commission, the Department of Housing and Urban Development, the Federal Deposit Insurance Corporation, the Federal Reserve Bank, the Federal Housing Finance Agency and the Office of the Comptroller of the Currency that would establish risk retention requirements under section 941(h) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (P.L 111-203). In your letter, you identify third party estimates of the potential impact of the proposed "premium capture cash reserve accounts" (PCCRA) requirement and request further information on agencies' cost-benefit analysis of this proposed requirement.

The notice of proposed rulemaking included the Commission's preliminary cost-benefit analysis of the proposed risk retention requirements, which included the proposed PCCRA requirement, and solicited the views of interested parties. In addition, the notice of proposed rulemaking included many requests for comment on the proposed PCCRA requirement. The proposing agencies specifically requested the public's input on whether there are alternative methodologies that would better achieve the purpose of PCCRA, which is primarily to prevent sponsors from structuring around the minimum five percent risk retention requirement.

The Commission has received substantial comment on this particular aspect of the proposed rules, including several estimates on costs similar to the estimates you have identified in your letter. No decisions have been reached at this point on the terms of the final rules, including the proposed PCCRA requirement. We are currently considering all comments received as we work cooperatively with the other agencies to develop final regulations that would effectively implement all aspects of section 941(b) in a manner consistent with the language and purposes of that section. The Commission's staff, including the economists in our Division of Risk, Strategy and Financial Innovation, is working diligently and collaboratively with the staff of the other agencies to ensure that the potential costs and benefits are fully considered as the agencies develop final rules. As we continue our work, we will continue to analyze the potential costs and benefits and will include a final analysis in the adopting release for the final rules. We will carefully consider your comments on the cost-benefit analysis as we move forward with this interagency rulemaking process.

Again, thank you for your input. Your comments will be included in the public comment file for the rulemaking, which is available on the SEC website. Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] if we can be of further assistance.

Sincerely,

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

January 19, 2012

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets and
Government Sponsored Enterprises
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Garrett:

Thank you for your November 10, 2011 letter relating to foreign companies that list in the United States and may be operating their businesses in a manner that violates United States law, for example by infringing on intellectual property owned by United States companies.

A principal objective of the Securities and Exchange Commission is investor protection. One way in which we seek to achieve this objective is by requiring publicly held companies that are traded in the United States to provide full and fair disclosure of material information. Generally speaking, the Commission's disclosure requirements apply to companies that undertake public offerings of securities in the United States, companies that are listed on U.S. stock exchanges, and companies whose securities trade in the United States in non-exchange markets and which are registered with the Commission. Although the Commission has broad anti-fraud authority over all companies that have securities sold or traded in the United States, unregistered securities and offerings are not subject to the Commission's specific disclosure and accounting requirements or to the review process described below.

The Commission's Division of Corporation Finance selectively reviews corporate filings to monitor and enhance compliance with the applicable disclosure and accounting requirements. In applying our disclosure requirements to their specific situations, companies must disclose information that is material to investors. Generally speaking, information is considered material if there is a substantial likelihood that a reasonable investor would consider it important in deciding how to vote or make an investment decision, or, put another way, if the information would alter the total mix of available information. This concept of materiality is the benchmark for all disclosure.

I appreciate your concerns about significant policy issues raised by filings by companies whose businesses may involve violations of U.S. laws. As you note in your letter, the Commission's rules require clear disclosure about risks companies may face, including risks arising from vulnerabilities to legal challenges. In carrying out the full disclosure mandate of the federal securities laws, the function of our review staff is not to investigate disclosures. Instead, in its filing reviews, the staff regularly issues comments on risk factor and other disclosures requesting companies to provide concrete, plain English explanations of the risks. If the staff does not understand the company's response, or believes the response is not accurate, the staff regularly issues additional comments until it is satisfied that the disclosure appropriately describes the facts and risks. The staff would take a similar approach in considering questions about disclosure concerning the validity of licenses or business arrangements necessary to distribute intellectual property in a lawful manner if questions had been raised about those matters. If, notwithstanding this comment process, there is a question regarding whether the company has provided disclosures that may violate the securities laws because the disclosure is materially misleading, omits material information or is otherwise fraudulent, the staff would refer the matter to staff in our Division of Enforcement for investigation. The Division of Enforcement works closely with criminal authorities and makes referrals to these authorities as appropriate. As part of the federal government, the Commission works with other agencies as they seek to carry out their own mandates. If the Commission can be of assistance to another agency, we do our utmost to render that assistance.

With regard to whether the Commission would take action to disapprove a listing because of concerns that the company's business may violate U.S. law, I note that the Commission's role under the federal securities laws is to require companies to provide material information to enable investors to make informed investment decisions. Consistent with the statutory mandate, in its filing reviews, the Commission's staff does not evaluate the merits of transactions or make any determination as to whether an investment is appropriate for any investor. In this sense, neither the Commission nor its staff "approves" companies to be listed on U.S. exchanges or to undertake public offerings of securities in the United States.

Finally, I note that the U.S. exchanges undertake their own reviews of companies seeking listings and have broad discretion to deny the listing of an issuer's securities, to protect investors and the public interest, if there are circumstances or conditions that make the listing inadvisable or unwarranted. This broad authority to deny a listing exists even if the issuer meets all the quantitative listing requirements under the exchanges' listing standards.

I hope that this information is useful to you. Please do not hesitate to contact me at (202) 551-2100, or have your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if we can be of further assistance.

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

September 26, 2012

The Honorable Scott Garrett
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, DC 20515

Dear Representative Garrett:

Thank you for your August 10, 2012 letter regarding the implementation of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Congo Conflict Minerals provision") as it relates to the impact on American businesses, and small businesses in particular.

In your letter, you expressed concern relating to the estimated costs of implementation, especially as those costs relate to small businesses. Based on these concerns, you urged the Commission to conduct a Small Business Regulatory Enforcement Fairness Act ("SBREFA") review and to adopt a safe harbor that allows public companies to exercise reasonable due diligence and provide measures to reduce their potential liability. You further indicated that the scope of the Congo Conflict Minerals provision and its reporting requirements should not include recycled materials or issuers that "contract to manufacture."

On August 22, 2012, the Commission adopted a new rule and form to implement the Congo Conflict Minerals provision. (Conflict Minerals Release No. 34-67716 (Aug. 21, 2012) available at http://www.sec.gov/rules/final/2012/34-67716.pdf). We received a great deal of public comment on the rule proposal, which informed the Commission in its consideration of the final rule. We believe the new rule effectuates the intent of Congress to require companies, including smaller reporting companies, to provide the mandated disclosure. In developing the final rule, however, we modified the proposed rule and tried to reduce the burden of compliance, while remaining faithful to the language and intent of the Congo Conflict Minerals provision that Congress adopted. For example, the final rule provides a temporary transition period of two years for all issuers, and four years for smaller reporting companies, during which an issuer may describe a product as "DRC conflict undeterminable" and is not required to obtain an audit of its conflict minerals report with respect to such products. In addition, the final rule provides alternative treatment for conflict minerals from recycled or scrap sources. The final rule requires an issuer that determines after a reasonable country of origin inquiry that its conflict minerals came from recycled or scrap sources to file a Form SD that discloses its determination and briefly describes its inquiry and the results of that inquiry, instead of requiring the issuer to provide a conflict minerals report and audit, as was proposed.

Since Congress adopted the Conflict Minerals Statutory Provision in July 2010, we have sought comment on our implementation of the provision, including our proposal, and have ensured that commentators had opportunities to provide their input, both before and after the rules were proposed. We extended the comment period for the rule proposal and convened an October 2011 roundtable at the request of commentators. We continued to receive comment letters through August 2012, all of which we considered. Some commentators provided responses to other commentators, particularly on the economic analysis. This robust, public, and interactive debate allowed us to more fully consider how to develop our final rule. Additionally, we considered and analyzed the numerous comments received regarding the costs and complexities of the statute and proposed rules, and have taken them into account in the final rule.

We understand the importance of adopting a final rule in a deliberate and careful manner and the importance of conducting a SBREFA review. We recognize that the rule will impose significant compliance costs on companies who use or supply conflict minerals and have determined that the rule is a "major" rule under SBREFA. As you know, for purposes of the SBREFA, a rule is "major" if it has resulted, or is likely to result, in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers or individual industries; or significant adverse effects on competition, investment, or innovation. As discussed below, we believe the new rule and form are likely to have an annual effect on the economy well in excess of $100 million.

As explained in the final rule release, we estimate that approximately 5,994 reporting issuers would be subject to some reporting requirement by the final rule. Some of the anticipated costs of the final rule, as estimated by commentators, include those associated with an issuer exercising due diligence on the source and chain of custody of its conflict minerals, obtaining an audit of its conflict minerals report, and modifying its organizational systems to capture and report on conflict minerals information. After analyzing the comments and taking into account additional data and information provided by the commentators, the final rule release explains that we believe it is likely that the initial cost of compliance with the new rule and form will be approximately $3 billion to $4 billion, while the annual cost of ongoing compliance will be in the range of $207 million to $609 million.[1]

We believe that the final rule will affect small entities with necessary conflict minerals, and we were mindful of compliance costs for small business in developing the final rule that implements the statute. In our initial Regulatory Flexibility Act ("RFA") analysis in the proposing release, we estimated that there were approximately 793 issuers for which conflict

[1] With respect to the $71 million cost figure in your letter, please note that was our initial estimate of only the total increase in paperwork burdens associated with the audit and due diligence requirements, as well as the cost of hiring professionals to help prepare the required disclosure as required under the Paperwork Reduction Act. This amount was based primarily on information that we obtained from various stakeholder groups prior to issuing the proposing release. We received additional information from various stakeholder groups subsequent to our proposal, which we evaluated and incorporated in making our cost estimates of the final rule.

minerals are necessary and that may be considered small entities. We derived our estimate of the number of affected small business reporting companies by searching our internal databases for issuers with total assets of less than $5 million in industries that our staff believed were more likely to include companies that manufacture or contract to manufacture products with necessary conflict minerals. As you may know, Exchange Act Rule 0-10(a) defines an issuer to be a "small business" or "small organization" for purposes of the RFA if it had total assets of $5 million or less on the last day of its most recent fiscal year.[2]

Some commentators indicated that we underestimated the number of small entities that would be impacted by the rule for purposes of our RFA analysis, asserting that we should consider small entities that are not directly subject to the requirements of the final rule for purposes of the RFA. Under the RFA, we are required to analyze the impact of the proposed rules on small entities that are directly subject to the requirements of the proposed rules.[3] Although, as we explained in the final rule release, other entities in an affected issuer's supply chain likely would be indirectly affected by the rules, the RFA does not call for an analysis of the effect on these companies.[4] Nonetheless, we did consider the indirect impact on these other companies as part of our economic analysis of the final rule and that impact is included in our approximately $3 billion to $4 billion initial cost of compliance determination and our $207 million to $609 million annual cost of ongoing compliance determination. We note that no commentator provided any other number of small entities or disagreed that 793 is the number that will be directly subject to the final rule, and we continue to estimate that there are approximately 793 small entities that file reports with us under Exchange Act Sections 13(a) and 15(d) and that will be directly subject to the final rule.

Thank you again for your input. Your letter has been included in the public comment file. Please do not hesitate to contact me or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) (b)(6) if you have any additional concerns or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

---

[2] 17 CFR 240.0-10(a).
[3] 5 U.S.C. 603(b).
[4] We note that the Small Business Administration's Office of Advocacy's guide for agencies performing a regulatory flexibility analysis of small entities states that courts have held that the RFA requires an analysis of impacts only on small entities directly subject to the requirements of a rule. See Small Business Administration's Office of Advocacy, A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act, "Direct versus indirect impact," pages 20-21 (June 2010), available at http://archive.sba.gov/advo/laws/rfaguide.pdf.

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

THE CHAIRMAN

April 8, 2013

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets and
Government Sponsored Enterprises
U.S. House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Garrett:

Thank you for your March 22, 2013 letter regarding the work of the U.S. Securities and Exchange Commission ("Commission") in connection with sections 939A and 939F of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act").

As you know, section 939A of the Dodd-Frank Act required Federal agencies to review the use of credit ratings in rules they administer that require an assessment of creditworthiness and report to Congress within one year any modifications to the rules to remove references to credit ratings. The Commission staff's *Report on Review of Reliance on Credit Ratings* as required by section 939A(c) was issued on July 21, 2011.

To date, the Commission has taken the following actions to remove credit rating references from its rules in response to section 939A:[1]

- In March 2011, the Commission proposed amendments to replace credit ratings references with alternative standards of creditworthiness in the Investment Company Act rule that governs money market fund operations and the rule that addresses the treatment of repurchase agreements for purposes of meeting diversification standards under the Investment Company Act.

- In April 2011, the Commission proposed amendments to rules relating to broker-dealer financial responsibility, distributions of securities, and confirmations of securities transactions in order to remove references to credit ratings in those rules.

- In July 2011, the Commission adopted amendments to replace rule and form requirements under the Securities Act of 1933 and the Exchange Act for securities offerings or issuer disclosure rules that rely on, or make special accommodations for, security ratings (for example, eligibility criteria for short-form registration of offerings of non-convertible securities) with alternative requirements.

[1] The Commission began removing references to credit ratings in its rules prior to enactment of the Dodd-Frank Act.

- Also, in July 2011, the Commission re-proposed the shelf registration requirements for offerings of asset-backed securities to replace the rating requirement with an executive officer certification regarding the securities, a requirement that the transaction documents provide stronger mechanisms for the oversight of the underlying assets, and a requirement aimed at facilitating investor communication.

In addition, the Commission has taken action to address standards of creditworthiness in place of statutory ratings references that the Dodd-Frank Act removed, as provided in section 939:

- In July 2012, the Commission issued an Interpretive Release regarding the terms "mortgage related security" and "small business related security" as defined in the Exchange Act as an interim measure because the Dodd-Frank Act removed references to credit ratings in these definitions effective on the two-year anniversary of enactment of that Act.

- In November 2012, the Commission adopted a rule to establish an alternative creditworthiness standard to replace the reference to credit ratings in an Investment Company Act provision that exempts business industrial development companies (state-regulated investment companies that lend to in-state enterprises and whose investors are primarily in-state) from most provisions of that Act.

We recognize that more remains to be done, and the Commission staff is continuing to devote significant attention to complete the work required by section 939A of the Dodd-Frank Act. A multidisciplinary team comprised of staff from the Division of Trading and Markets, the Division of Corporation Finance, the Division of Investment Management, the Division of Risk, Strategy, and Financial Innovation and the Office of the General Counsel is engaged in these efforts. With respect to the outstanding rule proposals, the staff has reviewed the public comments and is working to prepare recommendations for the Commission.

The Commission also continues to move forward with its other obligations under the Dodd-Frank Act, including in connection with section 939F of that Act. Section 939F required a study and report addressing the following:

- The credit rating process for structured finance products and the conflicts of interest associated with credit rating agency business models;

- The feasibility of establishing a public or private utility, or a self-regulatory organization, to assign Nationally Recognized Statistical Rating Organizations (NRSROs) to rate structured finance products;

- The range of metrics that could be used to determine the accuracy of credit ratings; and

- Alternative means for compensating NRSROs that would create incentives for accurate credit ratings.

To that end, the staff of the Commission prepared a *Report to Congress on Assigned Credit Ratings* that was issued on December 18, 2012. As recommended by the staff in that report, the Commission will be holding a public roundtable. Staff from the Office of Credit Ratings is leading the effort to organize this Commission roundtable. We expect that the concern you raise regarding the importance of competition among credit rating agencies will be one of the considerations discussed during the roundtable. We remain mindful of this issue and are hopeful that the roundtable will provide a forum to explore potential alternatives that could lead to, among other things, increased competition among NRSROs.

Thank you again for your letter. Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if we can be of further assistance.

Sincerely,

Elisse B. Walter
Chairman

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

THE CHAIR

September 4, 2013

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets and
Government Sponsored Enterprises
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Garrett:

This responds to your letter of August 21, 2013, which addresses the implementation of Title II of the JOBS Act by the Securities and Exchange Commission and my responses to the questions raised in your letter of July 22, 2013.

In your letters, you requested information, analyses, and conclusions about the Commission's proposal to amend Regulation D, Form D, and Securities Act Rule 156, which the Commission issued on July 10, 2013.[1] As noted in my August 8, 2013 letter, by issuing this proposal, the Commission began the public process for rulemaking that is now pending and for which public comments are being solicited as required by the Administrative Procedure Act.[2] Thus, at the current time, neither I nor the Commission has reached any conclusions on the content of any final rules that may be adopted. I appreciate the views expressed in your letters and will carefully consider them, as well as the views provided by public commenters, as the next steps for this proposal are considered. But I am not in a position to reach final conclusions on the issues presented in the proposal before the public has had an opportunity to express its own views on the proposal and the Commission has had an opportunity to consider these views. In an effort to be as responsive as possible at this juncture of the proposed rulemaking, however, I have reviewed the request for additional information identified in your August 21, 2013 letter and have provided further responses below. The numbers identified for each question below correspond to the questions contained in your original July 22, 2013 letter.

3. Proposed Rule 503 requires filings of Form D to be made fifteen days in advance of the first general solicitation. As described above, Congress specifically acted to remove a broad constraint on free speech by lifting the ban on general solicitation in the case of accredited investors. Congress did not authorize the Commission to impose a fifteen day ban on general solicitation. Please confirm that you will withdraw or modify the Proposed Rules to be consistent with Title II.

[1] *Amendments to Regulation D, Form D, and Rule 156*, Release No. 33-9416 (July 10, 2013) ("Proposing Release").

[2] To date, the Commission has received over 300 comment letters on the rule proposal.

The statutory mandate in the JOBS Act that required the Commission to remove the restriction on general solicitation does not preclude the Commission from considering additional measures that the Commission believes would be necessary for the protection of investors or to foster capital formation. As I previously indicated, however, we will consider carefully your comments on this issue. I can assure you that any action the Commission ultimately takes on this rulemaking will be consistent with applicable law.

4. **Proposed Rule 510T requires submission of "any written general solicitation materials used in...Rule 506(c) offerings to the Commission no later than the date of the first use of these materials."**

   i. **The urgency reflected in the proposal – that the solicitations be provided no later than the date of first use – suggests an enforcement objective. Does the Commission seek to identify fraud or compliance violations by requiring all market participants to inform the Commission of their advertisements on a same-day basis?**

As explained in the Proposing Release, the Commission proposed Rule 510T so as to better understand developments in the Rule 506 market when general solicitation is permitted in Rule 506 offerings. Proposed Rule 510T is intended to facilitate the Commission's ability to assess market practices so that the Commission would be in a position to take the necessary steps in response to such practices.

   ii. **Does this substantial continuing disclosure requirement indicate concerns that Commission staff is incapable of utilizing investigative tools such as programmed search routines, and investor tips to seek out non-compliant advertisements?**

The Commission's decision to propose Rule 510T should not be viewed as a statement on the efficacy of using other investigative tools, but rather as adding another source of information to those currently available to us.

   iii. **Does the Commission have a clear plan on how to process and make use of the potentially massive amounts of advertising information that will flow in on a daily basis to investigate fraud or compliance violations? Please provide all documents and communications referring or relating to the planned use of advertising data for enforcement purposes.**

If the Commission ultimately decides to adopt Rule 510T, I would ensure that we have a plan for any use of the collected information to inform us of market practices.

   iv. **Do you agree that proposed Rule 510T imposes a substantial and continuous reporting obligation on small businesses? Do you agree that this substantial and**

continuous reporting requirement applies to those businesses that fail to raise capital?

Proposed Rule 510T would apply to any issuer conducting an offering in reliance on Rule 506(c), including small businesses. If adopted, the requirement would apply whether or not the issuer is successful in raising capital.

Proposed Rule 510T would only require the submission of written general solicitation materials that the issuer has prepared and used to solicit investors. Therefore, as stated in the Proposing Release, it is not expected that this generally would be costly for issuers, as the only additional requirement would be to submit such materials to the SEC, which can be completed through a web-based submission. We do expect, however, to receive and consider public comment on this question.

v. **Are there less costly and burdensome means by which the Commission can access the advertisements, e.g., use private vendors to buy the publicly posted advertising data relating to Regulation D? Please compare the costs and benefits of the proposed disclosure requirement to other means of seeking data that do not require direct disclosure by potential issuers. Consider these in the context of the Regulatory Flexibility Act and provide the results and analysis to the Committee.**

I expect that the Commission will receive comments from the public on alternatives that would provide the Commission with access to the solicitation materials used in Rule 506(c) offerings. A critical factor in assessing these alternatives and the one proposed by the Commission is whether the alternative approaches would provide access to solicitation materials that are representative of the materials that are actually being used by issuers relying on Rule 506(c).

With respect to your request for a specific cost benefit analysis related to this question, I remain committed to ensuring that the Commission performs robust economic analysis to evaluate the potential economic consequences of the rules it proposes and adopts, as well as reasonable alternatives. Consistent with our staff's published guidance on economic analysis in Commission rulemaking, the Proposing Release contains an economic analysis of the proposed rule. In addition, any adopting release will include an economic analysis that evaluates the economic consequences of the Commission's proposed action and reasonable alternatives, including the benefits and costs of other means of seeking data that do not require direct disclosure by potential issuers.

vi. **Has the Commission considered sampling instead of seeking the entire population of self-reported advertisements? Has the Commission considered that a sample identified through searches, in lieu of self-reporting, would be more complete as it would include those that would otherwise fail to comply? Please explain.**

The Commission will thoroughly consider the economic effects of its rules, including the benefits and costs of the proposed rule and reasonable alternatives. As part of this analysis, the Commission will consider the economic effects, including the likely benefits and costs, of using sampling instead of seeking the entire population of self-reported advertisements.

vii. **Is there a substantive distinction in the statistical values that result from a properly sized sample when compared to statistics extracted from a total population? Please provide an analysis that strictly considers the costs and benefits of capturing the entire population of self-reported advertisements relative to capturing a sample that generates sufficient confidence.**

As I am informed by our economists, statistical values obtained by analyzing an unbiased and properly sized sample should generally be similar to statistical values obtained by analyzing the total population. However, because a sample, by definition, does not include all members of the population, statistics on the sample are necessarily probabilistic estimates of the statistics on the entire population. If the Commission decides to proceed to a final rule, its economic analysis will evaluate the potential benefits and costs of capturing the entire population of self-reported advertisements relative to capturing a sample.

5. **The Proposed Rules provide that for small businesses "a partial or complete exemption from the proposed requirements...would be inappropriate because these approaches would detract from the completeness and uniformity of the Form D dataset..."**

i. **Based on your rather sparse one-page analysis to comply witb the Regulatory Flexibility Act's requirements regarding significant alternatives for small business, your primary concern with providing exemptions to small business seems to be completeness of data. To the extent the Commission pursues the implementation of Rule 510T, despite alternatives and the risk of harm to capital formation, wouldn't periodic reporting of advertisements provide for completeness of data while reducing the burden on these entities?**

While the Commission proposed that written general solicitation materials be submitted no later than the date of first use, it also specifically requested public comment on whether a different deadline should be included in the final rule. We look forward to reviewing the comments received in response to this request and will consider any suggested alternatives, such as periodic submission of written general solicitation materials.

ii. **Provide all documents and communications referring or relating to the Commission's compliance with the Regulatory Flexibility Act as it pertains to the requirement to consider significant alternatives.**

The Commission's initial Regulatory Flexibility Act analysis was included in full in the Proposing Release. That analysis describes the impact of the rule proposal on small entities and the Commission's consideration of the significant alternatives. The Commission has specifically solicited comments about this analysis and, in particular, the existence or nature of the potential impact of the rule proposal on small entities discussed in the analysis, as well as any effects not discussed in the analysis. These comments will be considered in the preparation of the final Regulatory Flexibility Act analysis to be included in an adopting release, if the Commission decides to proceed with the rule proposal.

6. The Proposed Rules provide, within the economic analysis section:

> **Because these provisions are being adopted today, the information provided below regarding the current state of the private offering market in the United States does not include data related to the use of general solicitation in Rule 506(c) offerings or the disqualification of bad actors, because no such data exist. Hence, some of our analysis of the potential impact of the proposed rules considers the anticipated effects of the adoption of Rules 506(c) and 506(d). As a result, many of the potential costs and benefits are difficult to quantify with any degree of certainty, especially as the practices of market participants are expected to evolve and adapt to the ability to generally solicit in Rule 506(c) offerings.**

Based on the above excerpt, it appears the Commission has determined that the costs and benefits of the Proposed Rules relating to Rule 506(c) offerings cannot be reasonably estimated.

i. Please confirm that, according to page 110 of the Proposed Rules, and specifically because "many of the potential costs and benefits are difficult to quantify with any certainty," the Commission is incapable of reasonably estimating the costs and benefits of the Proposed Rules.

The Proposing Release includes an economic analysis that evaluates the likely economic consequences of the proposed rules, including the benefits and costs. As you note, the proposal was not able to quantify all benefits and costs. It is well-recognized that the benefits and costs of financial regulation are frequently difficult, if not impossible, to quantify with precision. The analysis included in the proposing release was consistent with our staff's economic analysis guidance. The guidance takes this difficulty into account and establishes a process that seeks to identify potential economic consequences – both qualitatively and quantitatively – so that the Commission understands the likely economic effects of its rules. By performing an economic analysis that includes a qualitative framework along with quantification, where possible, we can help ensure the Commission understands the likely benefits and costs of proposed rules without limiting our analysis to those impacts we can quantify with precision, and without giving any quantified benefit or cost outsized significance.

ii. To the extent that the Commission cannot understand the impact of its own rules, why wouldn't the Commission start with the current implemented rules and wait to understand their impact on the market and investors?

The course that you suggest is one of the possible alternatives that could result after public comment on the proposal. I am hopeful that the public comment process will enhance our understanding of the expected impact of the proposed rules, and that this process will help inform our consideration of all key choices.

iii. **As the Commission recently recognized by adopting a policy on cost-benefit analysis, evaluation of the costs and benefits of regulations is a crucial step in confirming the propriety of a proposed regulation. To the extent the Commission cannot perform an appropriate cost-benefit analysis, shouldn't the Commission forgo the sought after regulation or narrow it considerably so that capital formation isn't needlessly impeded?**

I believe that the economic analysis forming part of the Proposing Release was consistent with applicable requirements, and with our staff's economic analysis guidance. In addition, any rule that the Commission ultimately adopts will be accompanied by an appropriate economic analysis, informed by any public comments and data on benefits and costs the Commission receives.

7. **Proposed Rule 509 requires "additional disclosures in written general solicitation materials that include performance data so that potential investors are aware that there are limitations on the usefulness of such data and provide a context to understand the data presented..."**

The Commission's economic analysis states, in part, that "[w]e anticipate that the cost of including such legends in sales materials would be minimal for issuers. In some instances, the legends may be of limited benefit to investors because legends do not address whether the offering is fraudulent. It is possible that some unsuspecting accredited investors might erroneously believe that the inclusion of legends validates all of the information and risks regarding the offering. Further, it is possible that because these legends may contain standardized language, investors might discount the relevance of these legends."

Has the Commission evaluated the additional advertising costs necessary to include the legends? Has the Commission sought to understand the extent to which investors would disregard legends? Has the Commission evaluated the extent to which investors may be misled by legends? Please provide a detailed cost-benefit analysis that quantifies these factors and meaningfully estimates the costs and benefits.

The Proposing Release includes an economic analysis that evaluates the likely economic consequences of the proposed requirement for legends. In addition, I expect that the economic analysis will be further informed by additional information provided through the public comment process.

I hope you find this information helpful. Please do not hesitate to call me at (202) 551-2100, or have your staff contact Tim Henseler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] if you have any further questions or comments.

Sincerely,

Mary Jo White
Chair

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

THE CHAIR

September 16, 2013

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets and
Government Sponsored Enterprises
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Garrett:

I am in receipt of your August 27, 2013 letter in which you asked for information about the participation by David Blass, Chief Counsel of the SEC's Division of Trading and Markets, in the European Commission's conference in Belgium entitled "Crowdfunding: Untapping its Potential and Reducing the Risks." Your letter also notes that the SEC has not yet promulgated rules implementing the crowdfunding provisions of the Jumpstart Our Business Startups Act (JOBS Act).

As we have discussed, implementing the crowdfunding and other rulemakings required by both the JOBS Act and Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) are a top priority for me. The staff is working to bring a crowdfunding rule proposal before the full Commission for consideration in the near future. Since I joined the Commission in April 2013, we have been making progress in connection with our Congressionally-mandated rulemakings – we completed rulemakings to eliminate the ban on general solicitation in Rule 506 offerings under Regulation D, as required by the JOBS Act, and to disqualify securities offerings involving certain felons and other "bad actors" from reliance on Rule 506, as required by the Dodd-Frank Act. We also have, among other things, issued a proposal to address the cross-border application of rules related to security-based swap transactions, as required under the Dodd-Frank Act.

In response to your questions about the participation of Mr. Blass at the European Commission conference, it is important to note that this event was one of several included in a trip to Europe. In addition to participation in the crowdfunding conference, I understand that Mr. Blass met with a series of representatives of the European Commission, the European Union, the Bank of England, and the U.K.'s Financial Conduct Authority in both Brussels and London to discuss a wide range of important issues regarding the application of U.S. laws and regulations to cross-border security-based swaps transactions and to traditional securities activities, most notably, the operation of Rule 15a-6 under the Exchange Act, which provides conditional exemptions from broker-dealer registration for foreign broker-dealers that engage in certain activities involving U.S. investors. At the time of the trip, the Commission had just issued its cross-border proposal for over-the-counter derivatives.[1] Mr. Blass participated in a number of discussions related directly to matters that are core policy interests in the area, including the ability of firms to compete in the global market place and the extent to which the SEC can appropriately rely on substituted compliance by foreign-domiciled firms with the rule of certain foreign jurisdictions.

In your letter, you requested specific information about Mr. Blass's participation in the European Commission crowdfunding conference. Below please find information provided by the staff in response to your questions.

1. **Do you believe that this international travel was essential to Mr. Blass' role as Chief Counsel of the Division of Trading & Markets?**

As the Chief Counsel of the Division of Trading and Markets, a component of Mr. Blass' duties is to engage and participate in discussions with regulators from other jurisdictions in matters that directly relate to the work of his Division. He is highly qualified to lead such discussions with any foreign regulator, including the senior European officials he met with on this trip. While one component of his trip was to speak before the European Commission crowdfunding conference, much of the trip actually involved Mr. Blass participating in a series of meetings with senior European officials to discuss the cross-border rule proposal and the cross-border application of rules and regulations in the traditional securities markets. These meetings were part of an important effort to inform European regulators and other market participants of the merits of our cross-border rule proposal.

With respect to the European Commission crowdfunding conference, I understand from staff that Mr. Blass' participation in the conference led to clear benefits. The staff did consider the budgetary impact of the trip prior to determining to participate, ultimately deciding that the conference presented a unique opportunity for the SEC to interact with and learn from senior representatives of other countries that have meaningful experience with crowdfunding regulatory structures comparable to the one contemplated by the JOBS Act. Communications with knowledgeable representatives from these countries can provide us with important information that can assist the staff in its preparation of a crowdfunding rule proposal for Commission consideration. At this conference, Mr. Blass learned first-hand from representatives of the U.K.'s Financial Conduct Authority about their experiences with crowdfunding. Mr. Blass' participation also allowed him to establish direct lines of communication with industry participants that currently offer investment-based crowdfunding. He was also able to learn about their operations and risks, as well as the potential successes of crowdfunding. As a senior member of the SEC staff and one of the leaders of the crowdfunding rulemaking effort at the SEC, Mr. Blass was uniquely positioned to engage with foreign regulators and other industry participants to learn from their crowdfunding experiences. Additionally, I understand that the fact that the conference was sponsored by the European Commission, an important regulatory

[1] *See* Release No. 34-69490, *Cross-Border Security-Based Swap Activities; Re-Proposal of Regulation SBSR and Certain Rules and Forms Relating to the Registration of Security-Based Swap Dealers and Major Security-Based Swap Participants* (May 1, 2013), http://www.sec.gov/rules/proposed/2013/34-69490.pdf.

body which the SEC frequently interacts with, also factored into the staff's determination to participate in the conference.

2. ***Who approved Mr. Blass' international travel? Please provide the name(s) and title(s) and the reason(s) they authorized the travel.***

Mr. Blass' travel, his participation at the meetings in Brussels and London, and his participation at the European Commission conference were approved by his direct supervisor, James Burns, Deputy Director of the Division of Trading and Markets, and by John Ramsay, Acting Director of the Division of Trading and Markets, in close consultation with Robert Fisher, Acting Director of the SEC's Office of International Affairs. The travel was approved consistent with the reasons described above.

Because the trip involved international travel, Mr. Blass's travel also was authorized by Jeffrey Heslop, the SEC's Chief Operating Officer.

3. ***Please provide an itemized list of Mr. Blass' expenses for his trip to Belgium.***

An itemized list of Mr. Blass' expenses for his trip to Belgium and London is attached to this letter, and is marked as Attachment A.

4. ***Please provide Mr. Blass' complete itinerary for his trip to Belgium***

An itinerary for Mr. Blass' trip is attached to this letter, and is marked as Attachment B.

5. ***Did Mr. Blass or any of his superiors who reviewed and approved his travel consider that his participation by either conference call or video conference would have been a more appropriate use of SEC resources? If not, please provide the specific reasons that Mr. Blass had to personally attend the conference.***

Yes. Before committing to speak at the European Commission conference on crowdfunding, I understand that Mr. Blass discussed with the conference organizers whether it would be feasible to participate by telephone or by video conference. Mr. Blass, however, was asked to participate on a moderated panel in which dialogue among panelists was required. As a result, it was determined that Mr. Blass' participation on an in-person basis was preferable and more practical. Additionally, remote participation at the conference ultimately was not a realistic alternative given the other meetings that were organized with senior European officials and market participants.

6. ***Did any other SEC staff members attend this conference with Mr. Blass? If yes, please provide their names and titles and the business justification for their attendance.***

No other SEC staff member accompanied Mr. Blass to the conference or on the trip.

7. ***How many SEC examiners could have been sent to examine a credit rating agency, an investment adviser, a mutual fund, a security-based swap dealer or a clearinghouse for the cost of Mr. Blass' trip to Brussels, Belgium?***

The total expenses for Mr. Blass' trip – including the non-crowdfunding aspects of the trip – were only a small fraction of the costs of a typical examination of an SEC-registered entity. As such, no examination could be said to have been disrupted, delayed, or failed to be conducted as a result of the trip.

Thank you for your letter. If you require further information, please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Tim Henseler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary Jo White
Chair

Attachments

Expenses for trip to Belgium and London

Air travel:

Dulles to Brussels, *June 1*	
Brussels to London, *June 4*	
London to Dulles, *June 6*	
Total Air Travel	**$ 2,030.40**

Lodging:

Brussels, *Meridian Hotel, June 2 - 4*[1]	$ 937.17
London, *Sheraton Heathrow, June 4 – 5*	$ 325.72
London, *Waldorf Hilton, June 5 - 6*	$ 458.89
Total Lodging	**$ 1,721.78**

Ground transportation (taxis/train/parking):	**$ 455.74**
Per diem for foreign travel (meals/expenses):[2]	**$ 929.50**
Booking agent fees:	**$ 49.04**
TOTAL:	**$ 5,246.46**

[1] This includes an early check-in fee on the morning of June 2.

[2] Foreign per diem rates are established monthly by the State Department's Office of Allowances. Separate amounts are established for lodging and for meals and incidental expenses.

Attachment B

Meeting Itinerary for Brussels/London Trip

<u>**Monday, June 3**</u>

European Commission: Crowdfunding Conference (participation on one panel discussion, attended other panel discussions and conducted several meetings and discussions with foreign regulators and industry participants)
Location: Brussels, Belgium

Maria-Teresa Fabregas, Head of Securities Markets Unit, DG Markt
Location: Brussels, Belgium

<u>**Tuesday, June 4**</u>

Kay Swinburne, U.K. Conservative Spokesman, Economic and Monetary Affairs
Location: Brussels, Belgium

Susan Baker, U.S. Treasury Representative for Europe
Location: Brussels, Belgium

Olle Schmidt, MEP, Group of the Alliance of Liberals and Democrats for Europe
Location: Brussels, Belgium

Natalia Radichevskaia, Permanent Representation of Luxembourg to EU
Location: Brussels, Belgium

Johannes Erhard, Financial Attaché, Permanent Representation of Germany
Location: Brussels, Belgium

Markus Ferber, Group of the European People's Party, Rapporteur of MIFid,
Location: Brussels, Belgium

Philippe Emin, Financial Attaché, Permanent Representation of France
Location: Brussels, Belgium

<u>**Wednesday, June 5**</u>

Fabio Braga, U.K. Financial Conduct Authority
Anne Wetherilt – Bank of England
Location: London, England

Susan Cooper, U.K. Financial Conduct Authority
Location: London, England

<u>**Thursday, June 6**</u>

Anthony Belchambers, Futures and Options Association
Philip Read, Association for Financial Markets in Europe
Location: London, England

Richard Metcalfe, Roger Cogan, Nicola Curtis, Chris Bates, ISDA
Location: London, England

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

THE CHAIR

May 23, 2013

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets
and Government Sponsored Enterprises
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Garrett:

Thank you for your April 24, 2013 letter urging the Commission to focus its attention on its statutorily-mandated rulemaking responsibilities under the Jumpstart Our Business Startups (JOBS) Act and not on a rule proposal related to the disclosure of corporate political spending.

I am fully committed to implementing the rulemaking required by the JOBS Act. I believe that the SEC must complete, in as timely and smart a way as possible, the JOBS Act rulemaking mandates and those contained in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Commission and the staff are working as expeditiously as possible to complete these legislative mandates.

With respect to possible rulemaking regarding political contributions, the Commission received a rulemaking petition in August 2011 from the Committee on Disclosure of Corporate Political Spending requesting that the Commission develop rules that would require public companies to disclose the use of corporate resources for political activities. The Commission has received a great deal of public comment on the rulemaking petition. Although the vast majority of the letters support the rulemaking petition or urge the Commission to develop a rule requiring similar disclosure, we also have received letters that oppose such a rule.

The Division of Corporation Finance staff is reviewing comment letters received on the petition, and is researching disclosure of political spending to inform any staff recommendation to the Commission as to whether or not any action should be taken in response to the petition. The staff has not reached a conclusion on whether to recommend to the Commission that rules on corporate political spending should be pursued, and no work has been undertaken on a proposed rule.

Thank you again for taking the time to share your thoughts on this matter. Please call me at (202) 551-2100 or have your staff call Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) should you need additional information.

Sincerely,

Mary Jo White
Chair

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

THE CHAIRMAN

December 11, 2012

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets, Insurance, and
Government Sponsored Enterprises
Financial Services Committee
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Garrett:

Thank you for your November 20, 2012 letter concerning the Commission's implementation of the Jumpstart Our Business Startups Act (the JOBS Act). In the letter, you urge the Commission to closely adhere to Congress's intent in adopting the amendments to Rule 506 of Regulation D as directed by Section 201(a) of the JOBS Act and to refrain from implementing new requirements on investor accreditation.

The Commission has received a great deal of public comment on this rule proposal. The staff is working to develop recommendations for the Commission with regard to how to move forward with implementation of Section 201, and your comments will be helpful in this regard. Your letter has been added to the public comment file.

Thank you again for your input Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any additional concerns or comments.

Sincerely,

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

April 2, 2012

The Honorable Scott Garrett
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, DC 20515

Dear Representative Garrett:

Thank you for your March 2, 2012, letter concerning the Commission's concept release under the Investment Company Act of 1940 about mortgage-related pools, including certain real estate investment trusts or "REITs." The concept release invited broad public comment on various interpretive issues under that Act affecting these companies. The concept release also invited suggestions on any steps that the Commission could take to provide greater clarity, consistency or regulatory certainty in this area of the law. The comment period ended on November 7, 2011, and we have received approximately 200 comment letters from REITs, retail investors in REITs, financial advisors, and trade associations, among others.

All of the comments that we have received will help guide any further actions that we take on the issues raised in the concept release. Along with the interpretive legal and investor protection issues, we will certainly give thoughtful and diligent consideration to the broader economic impact that any such further actions might have, including any potential impact on capital formation.

Thank you again for your letter, which will be included in the public comment file. Please call me at (202) 551-2100, or have your staff call Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any further questions or comments.

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

February 28, 2012

The Honorable Scott Garrett
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, DC 20515

Dear Representative Garrett:

Thank you for your January 30, 2012 letter in which you express concern about the application of the Investment Advisers Act of 1940 ("Advisers Act") to advisers to private equity funds. Your letter also urges the Commission to delay the March 30, 2012 registration deadline for private equity firms and to exempt them from registration.

The new registration requirement for private equity firms is the result of a provision in the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") which repeals an exemption from registration under the Advisers Act upon which private equity firms previously relied. Moreover, registration under the Advisers Act, which has been in effect since 1940, is not designed to address systemic risk concerns. The Commission estimated that only 170 private equity advisers would be classified as "large" private equity advisers and therefore subject to the more extensive reporting requirements on Form PF. This represents a small percentage of the more than 11,000 currently registered investment advisers. Rather, the Advisers Act is designed to protect advisory clients from conflicts and other risks associated with clients entrusting their assets to advisers. In this regard, an adviser to a private equity fund is not meaningfully different from an adviser to a hedge fund or other pooled investment vehicle.

Nevertheless, it may make sense for the Commission to apply the Advisers Act to advisers to private equity funds differently in some circumstances. Thus, in adopting Form PF, the Commission reduced the scope of required reporting by advisers to private equity funds to better take into account the private equity fund business model. In addition, I understand that the staff of the Division of Investment Management is engaged in ongoing discussions with various representatives of the private equity industry concerning interpretive and other issues that have arisen as a result of the new registration requirement applicable to private equity and many other private fund advisers. On January 18, the staff issued a no-action letter reducing the burdens on private fund advisers, including private equity advisers, that would otherwise be required to file multiple registration forms.

Thank you again for your letter. Please call me at (202) 551-2100, or have your staff call Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) (b)(6) [redacted] if you have any questions or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIR

October 4, 2013

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets and
Governmental Sponsored Enterprises
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Garrett:

Thank you for your September 12, 2013 letter regarding the Securities and Exchange Commission's oversight of private fund advisers, including private equity advisers required to register with the Commission under Title IV of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

As you know, Title IV of the Dodd-Frank Act generally mandated that advisers to private funds with assets under management of at least $150 million register with the Commission. In June 2011, the Commission implemented this requirement when it adopted registration rules for certain advisers to private funds. In addition, Title IV directed the Commission to establish a system of confidential reporting by private fund advisers for the assessment of systemic risk by the Financial Stability Oversight Council (FSOC) or as necessary and appropriate in the public interest and for the protection of investors. In October 2011, the Commission implemented these provisions when it adopted rules requiring certain advisers to private funds to provide information on Form PF.[1] The information collected on Form PF is intended primarily to support FSOC in its assessment of systemic risk. In addition, the SEC is using the information collected on Form PF in its regulatory programs, including examinations, investigations, and investor protection efforts.[2]

Since January 2012, over 1,600 private fund advisers have registered with the Commission for the first time. These advisers became subject to oversight under the Investment Advisers Act in the form of certain business conduct rules and on-site compliance examinations. As a general matter, the Commission's Office of Compliance Inspections and Examinations

[1] *See* Release No. IA-3308, *Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF* (Oct. 31, 2011), http://www.sec.gov/rules/final/2011/ia-3308.pdf.

[2] *See* U.S. Securities and Exchange Commission, *Annual Staff Report Relating to the Use of Data Collected from Private Fund Systemic Risk Reports*, July 25, 2013, http://www.sec.gov/news/studies/2013/im-annualreport-072513.pdf.

(OCIE) examines registered advisers to assess whether they are operating in a manner consistent with the federal securities laws. OCIE administers such examinations though the National Examination Program (NEP), whose mission is to protect investors and to maintain market integrity through examinations that promote compliance, prevent fraud, identify risk, and inform policy.

In October 2012, the NEP launched an initiative to conduct focused examinations of newly registered advisers to private funds ("presence exams").[3] Presence exams, which are shorter in duration and more streamlined than typical examinations, are designed both to engage with the new registrants to inform them of their obligations as registered entities and to permit the Commission to examine a higher percentage of new registrants. Pursuant to these objectives, the NEP developed the following list of five focus areas for the presence exams: (1) marketing; (2) portfolio management; (3) conflicts of interest; (4) safety of client assets; and (5) valuation. The NEP took a number of steps to assure the presence exam initiative was transparent with the industry, including sending letters to the senior officer and chief compliance officer of new registrants. These letters described the presence exam focus areas and provided a list of relevant resources, which gave them an opportunity to prepare for the presence exams.[4]

To date, staff has completed 132 presence exams, and approximately 62 more are ongoing. This initiative involved about 10% of the SEC's exam resources, allowing NEP staff to reach more private fund advisers while not significantly detracting from the examination of retail firms.

In addition, as some have noted, the investors ultimately impacted by these newly-registered private fund advisers are not exclusively high net worth investors. Academic research has reported that public and private pensions are the largest investors in private equity funds.[5] It also has been reported that more and more public and private pension funds are investing significant percentages of their portfolios in private funds.[6] As a result, many of the underlying beneficiaries of these private funds are American workers who are or will be relying on a pension fund to support them in retirement. In addition, charities, academic institutions, foundations and endowments may also have indirect exposure to private funds that pursue alternative investment strategies.

---

[3] Although "private funds" generally include liquidity, hedge, private equity, venture capital, real estate and other funds, the presence exams focus primarily on hedge and private equity fund advisers, which constitute the vast majority of the new registrants.

[4] A copy of the presence exam letter sent to new registrants can be found at http://www.sec.gov/about/offices/ocie/letter-presence-exams.pdf.

[5] *See* L. Phalippou and O. Gottschlag, *The Performance of Private Equity Funds*, Review of Financial Studies 22 (2009), 1747-1776; P. Gompers and J. Lerner, *The Venture Capital Cycle* (MIT Press 2006); S. Prowse, *The Economics of the Private Equity Market*, Economic Review (Federal Reserve Bank of Dallas, 1998).

[6] *See* Christopher Matthews, *Why Pension Funds are Hooked on Private Equity*, Time.com, April 15, 2013; Michael Corkery, *Pensions Bet Big with Private* Equity, Wall Street Journal, Jan. 25, 2013.

We understand that many advisers to private funds have taken measures to implement controls reasonably designed to assure compliance with their fiduciary and regulatory obligations, and we are supportive of these efforts. There are, nevertheless, recurring instances of material misconduct. These activities are simply not detectable by even the most sophisticated clients and are better suited to detection through regulatory examination. For example, some investors are unable to determine whether fund assets are subject to appropriate safekeeping or whether the performance represented to them in an account statement is accurate. As you know, the Commission has brought numerous enforcement actions involving private fund advisers related to these matters. The ability of the SEC to identify and prosecute misconduct increases with registration requirements and examinations. The possibility of such examinations can also have a deterrent effect. As such, I believe it is important that we have an appropriate level of oversight of private fund advisers, both for investor protection and market efficiency purposes.

With regard to Form PF, the Commission has only recently received a complete set of initial filings. Since the adoption of Form PF, Commission staff has focused its efforts on (a) implementing an electronic filing system for use by Form PF filers; (b) resolving technical aspects of data security, collection, and delivery; (c) answering questions and providing filer assistance; (d) establishing and overseeing Commission-wide protocols regarding how Form PF data is accessed and protected internally; and (e) providing FSOC, through the Office of Financial Research, assistance in connection with the data collected. Although the primary aim of Form PF was to create a source of data for the FSOC to use in assessing systemic risk, as noted above, the Commission is using the information to support its own regulatory programs, including examinations, investigations, and investor protection efforts relating to private fund advisers. In particular, Commission staff has incorporated Form PF data into proprietary systems that are used for data analysis on the asset management industry, incorporated filings into examination preparation, and continues to work to use data obtained from Form PF to identify and monitor risk taking activities of particular registered advisers and across all private funds managed by registered advisers.

Your letter also references the Commission's recent proposal to amend Regulation D, Form D, and Securities Act Rule 156.[7] Although the proposal, if adopted, would primarily allow the Commission to better monitor market developments resulting from the removal of the general solicitation ban and assess whether it has been implemented, the proposal also includes certain items that are intended to enhance investor protection. For example, the proposal would require a legend in written general solicitation materials to inform potential investors that the offering is limited to accredited investors and, therefore, non-accredited investors are not permitted to participate. The proposal also would extend the antifraud guidance contained in Securities Act Rule 156 to the sales literature of private funds, which would provide a benefit to investors who are considering investing in Rule 506 offerings using general solicitation. To date, the Commission has received more than 450 comment letters on the proposed amendments. To provide the public with additional time to consider the matters addressed by, and comments

[7] *See* Release No. 33-9416, *Amendments to Regulation D, Form D, and Rule 156* (July 10, 2013), http://www.sec.gov/rules/proposed/2013/33-9416.pdf.

submitted on, the proposal, the Commission recently re-opened the comment period until November 4, 2013. As always, we will carefully consider the comments we receive.

In your letter, you asked a series of specific questions. Outlined below are responses to each based on information provided to me by SEC staff.

1. **What specific systemic risk concerns or issues does OCIE review when inspecting advisers to private funds? Does OCIE document these findings in its examination reports?**

As described above, although OCIE staff has employed Form PF both as a supplement to its risk-based examination program and as a helpful tool for examining newly registered advisers, OCIE has not to date reviewed specific systemic risk issues as part of its examinations of private funds. The presence exams discussed above focus on areas of the business and operations of advisers that can pose a significant investor protection risk, such as marketing and safety of client assets.[8] OCIE staff is not aware of any instances to date where the examination program has had cause to document findings in its reports related to specific systemic risk concerns.

2. **Has the SEC established specific, internal inspection guidelines or inspection training programs and educational materials for OCIE examiners regarding the identification of potential system risk concerns posed by advisers to private funds?**

To prepare for the influx of private fund advisers that registered with the Commission following the Dodd-Frank Act, OCIE hired industry experts, conducted training, and created educational materials to tailor its examination program for these new registrants. That said, because the resulting presence examinations were intended to focus on whether private fund advisers are operating in a manner consistent with the federal securities laws, these initiatives and materials did not include information specifically related to the identification of potential systemic risk concerns posed by advisers to private funds.

3. **How many employees hired by the SEC since the enactment of the Dodd-Frank Act have special skills in systemic risk identification and regulation?**

The SEC hires candidates based on a variety of factors, depending on the specific position description and the candidate's educational and professional experience. The SEC generally has not identified systemic risk as a specific, standalone criterion for hiring. The staff has informed me, however, that there are a small number of individuals within the Division of Trading and Markets, OCIE, and the Division of Economic and Risk Analysis hired since enactment of the Dodd-Frank Act whose range of skills related to risk analysis includes systemic risk.

---

[8] Of course, if issues related to the viability of a private fund adviser were to surface during an exam, OCIE would broaden the scope of the exam to review those issues and the effect of any possible failure of such entities.

4. **Please describe the recommendations made by the Financial Stability Oversight Council and/or the Office of Financial Research in developing Form PF to identify potential areas of systemic risk.**

As the information collected on Form PF is intended primarily to support FSOC and its understanding and assessment of systemic risk in the U.S. financial system, Form PF was designed in consultation with staff from other FSOC agencies.[9]

The Dodd-Frank Act directed the Commission to collect information in seven discrete areas from private fund advisers, and also to consider whether to collect additional information in consultation with FSOC. I understand from SEC staff that there was significant collaboration with staff representing other FSOC members on the entirety of Form PF during its development in order to support FSOC's use of the data to assess systemic risk. Although Form PF was not intended to be FSOC's exclusive source of information regarding the private fund industry, it was designed to provide FSOC with information about the basic operations and strategies of private funds to permit FSOC to obtain a baseline understanding of potential systemic risk across both the private fund industry as well as in particular types of private funds, such as hedge funds.

5. **What specific examples of additional requests for information have you issued to advisers to private funds specifically regarding systemic risk?**

The staff is not aware of requests for information issued to advisers to private funds specifically regarding systemic risk, other than as required by Form PF.

6. **Has OCIE or the SEC's Division of Investment Management ever conducted additional investigations of an adviser to a private fund based primarily on systemic risk concerns?**

Neither OCIE nor the Division of Investment Management has conducted examinations of an adviser to a private fund based primarily on systemic risk concerns.

7. **How many advisers to private funds ceased operations in 2012? Did any adviser's closure in 2012 systemically impact the U.S. capital markets? If yes, please provide the name(s) of the advisers and the specific systemic market impact, as the SEC has not previously shared the systemic risk impact presented by any adviser to a private fund with the Committee.**

In 2012, 54 registered investment advisers that identified having at least one private fund client withdrew their registration, either because they went out of business or were no longer offering advisory services that require registration. Staff of the Commission does not believe that any of these withdrawals had a systemic market impact.

---

[9] This includes working with the Commodities Future Trading Commission (CFTC). Form PF can be used by investment advisers to satisfy their filing obligations with both the SEC and CFTC if required.

* * *

I hope that you find this information helpful. If you require further information, please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Tim Henseler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary Jo White
Chair

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

THE CHAIRMAN

January 10, 2012

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets
and Government Sponsored Entities
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Garrett:

Thank you for your December 21, 2011 letter regarding the ongoing work of the Securities and Exchange Commission to promote investor protection initiatives. You and I have previously discussed the importance of protecting investors and facilitating functional and accessible capital markets, particularly as it relates to possible regulations governing broker-dealer and investment adviser standards. I welcome the opportunity to respond to your questions regarding our economists' progress in gathering, reviewing and analyzing the data and information necessary for a meaningful consideration of potential standard of conduct regulations for broker-dealers and investment advisers when providing retail investment advice.

There are currently three economists within the Division of Risk, Strategy, and Financial Innovation ("Risk Fin") working on the topic of retail financial advice and the differences between the broker-dealer and investment adviser regulatory regimes. Two of the economists were members of the interdivisional drafting team responsible for publishing the *Study on Investment Advisers and Broker-Dealers* as required by Section 913 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). These economists continue to regularly meet with staff from the Division of Investment Management ("IM") and the Division of Trading and Markets ("TM") to collectively discuss the topic and to meet with outside interest groups. IM and TM staffs also contribute to the economic analysis by providing industry insights and legal analysis.

Although SEC employees do not track their time by specific projects, the three economists studying this issue spend a significant amount of time on this matter, while also working on other Dodd-Frank Act implementation issues and performing other duties within Risk Fin and on behalf of the Commission. They have made significant progress in the Commission's understanding of available data and evidence. Specific milestones are summarized below:

- Risk Fin economists have reviewed and catalogued the publicly available data and information, including academic articles, reports, surveys, and opinion pieces discussing the market for retail financial advice. The search encompasses information that describes differences between regulatory regimes based on fiduciary and suitability standards, the economics of the financial advice industry, the quality of financial services, areas of conflicts-of-interest, consumer disclosure, and retail investor behavior. The data and information collected should help the Commission in any future rulemaking.

- In December 2011, Risk Fin communicated a summary of the available literature (approximately 150 different articles) to the Commission. Risk Fin economists discussed the existing evidence and its relevance to potential regulation.

- Risk Fin economists maintain an ongoing dialog with financial economists from academia and other agencies. Interacting with other economists gives Risk Fin economists a different and useful perspective on how to develop and conduct an economic analysis in this area. For example, our economists discussed a similar regulatory question with economists at other agencies to gain their perspective on these types of issues.

- Risk Fin economists have been proactive in corresponding with industry groups and finance and law academics to ascertain the availability of data important in any future economic analysis and to obtain additional points of view. In addition, Risk Fin economists are working with other Commission staff to develop focus group and survey questions to obtain additional information and insights through investor testing.

In moving forward with possible regulatory action, the Commission will follow its usual practice of including its economic analysis for review and public comment as part of any proposal. This process has important benefits, as the comment period that follows a proposed rule provides a mechanism for refining our economic analysis by seeking feedback on specific issues and making requests for private data. This is especially important where, as here, data necessary to conduct an analysis may not be publicly available. The comment process also provides us with additional insights from affected parties that may not have been known or considered during the proposal's development. By analyzing and, where appropriate, incorporating this input into its analysis, the Commission is able to determine whether to proceed to a final rule and, if a formal rule is warranted, to produce the best possible product.

In this case, it likely will be especially important for the Commission to ask the public to provide additional relevant data or empirical analysis. As such, SEC staff, including Risk Fin economists, are drafting a public request for information to obtain data specific to the provision of retail financial advice and the regulatory alternatives. In this request, it is our hope commenters will provide information that will allow Commission staff to continue to analyze the various components of the market for retail financial advice.

Thank you for your letter and your interest in our rulemaking approach. If you have any questions or would like to further discuss this letter, please feel free to contact me at (202) 551-2100, or have your staff call Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

April 15, 2013

The Honorable Scott Garrett
Chairman, Subcommittee on Capital Markets and
Government Sponsored Enterprises
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Garrett:

I am writing in response to your recent letter to Chairman Walter regarding the Commission's support of a Second Circuit Court of Appeals decision before the Supreme Court in *Gabelli v. SEC.* In that case, the Commission alleged violations of the antifraud provisions of the Securities Exchange Act and the Investment Advisers Act. The Commission alleged that petitioners secretly permitted one mutual fund investor to engage in market timing within the mutual fund in return for an investment in a hedge fund and violated the Advisers Act when they failed to disclose the market timing or the quid pro quo agreement to the fund's board of directors and other investors. The Commission further alleged that petitioners had falsely represented that they were taking all necessary steps to eliminate market timing. Whereas the market timer earned returns of between 73% and 185%, long-term investors lost an average of 24% on their investments as a result of the secret market timing arrangement.

When the district court dismissed portions of the claims in the Commission's complaint, the Commission appealed the dismissal, arguing that the district court erred in four respects, including in holding that the Commission's request for civil penalties was barred by the five-year statute of limitations in 28 U.S.C. § 2462. The Second Circuit Court of Appeals agreed with the Commission and reversed the district court's decision on all four grounds, including on its interpretation of § 2462. The defendants' subsequent challenge to that decision in the Supreme Court addressed only one aspect of the Second Circuit's decision, namely, the statute of limitations issue.

Relying principally on a Supreme Court case holding that the fraud discovery rule applied to an action brought by the government, *Exploration Co. v. United States*, 247 U.S. 435 (1918), the Commission has long taken the view that the discovery rule applies to suspend the limitations period in cases of fraud. The Seventh Circuit and the First Circuit courts of appeals have agreed with the Commission's interpretation. *SEC v. Koenig*, 557 F.3d 736 (7th Cir. 2009); *SEC v. Tambone*, 550 F.3d 106, 148-49 (1st Cir. 2008), *as reinstated by* 597 F.3d 436, 450 (1st Cir. 2010). In *Gabelli v. SEC*, a panel of the Second Circuit Court of Appeals also agreed unanimously that the fraud discovery rule applied in Commission penalty actions, *SEC v. Gabelli*, 653 F.3d 49 (2d Cir. 2011), and the full court voted to deny the defendants' petition for rehearing.

At that point, the *Gabelli* defendants – not the Commission – sought Supreme Court review. Thereafter, as is customary for SEC matters appealed by defendants to the Supreme Court, the Office of the Solicitor General within the Department of Justice determined that it would defend the Commission's position in the Supreme Court appeal. The Commission provided input into that determination, and concurred with it.

Given that three courts of appeals had ratified the Commission's position, the Solicitor General's determination to oppose the appeal was in no way baseless, nor was the theory that the discovery rule was properly read into § 2462 a dubious legal claim. Moreover, the Commission's attempt to hold wrongdoers accountable for their fraud by seeking civil penalties is a proper exercise of the Commission's responsibility to protect public investors. Congress has expressly recognized the importance of civil penalties in the SEC's overall enforcement program: "[t]o be effective, [the SEC's] enforcement program must do more than detect and prosecute law violators and assist in the recovery of investor funds. It must have a strong remedial effect, so that potential law violators will be deterred from engaging in unlawful activity that may lead to swift enforcement action and significant penalties." S. Rep. 101-337 at 4-5 (1990).

In addition, the principal staff from the Commission's Office of the General Counsel (OGC) and Enforcement Division (Enforcement) involved both in appealing the underlying district court action and in assisting the Solicitor General in defending the unanimous determination of the Second Circuit Court of Appeals are appellate or enforcement attorneys. They are not, and would not, be involved in writing rules for the Jumpstart Our Business Startups Act. Their work in this regard was squarely in line with their job responsibilities, which is to enforce the securities laws to protect investors and to defend the Commission's ability to do that effectively when matters are appealed.

Pursuant to your request, the approximate number of SEC staff hours dedicated to the *Gabelli* appeals (both to the Second Circuit and the Supreme Court) are as follows:

Deputy General Counsel, OGC: 10 hours

Solicitor, OGC: 80 hours

Senior Litigation Counsel, OGC:
Approximate time spent on appeal to the Second Circuit: 380 hours
Approximate time spent on appeal to the Supreme Court: 490 hours

Senior Litigation Counsel, OGC:
Approximate time spent on appeal to the Second Circuit: 460 hours
Approximate time spent on appeal to the Supreme Court: 500 hours

Senior Litigation Counsel, OGC:
Approximate time spent on appeal to the Supreme Court: 400 hours

Assistant Chief Litigation Counsel, Enforcement:

Approximate time spent on appeal to the Second Circuit: 6 hours
Approximate time spent on appeal to the Supreme Court: 14 hours

Investigative Staff, Division of Enforcement:

Approximate time spent on appeal to the Second Circuit and to the Supreme Court: less than 20 hours

We estimate the total cost of those efforts, as measured by the salary of the staff involved, to be approximately $220,000. There were no funds paid by the Commission to outside counsel related to these appeals.

Thank you for your inquiry. Please contact me at (202) 551-2100, or have a member of your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] if we can be of further assistance.

Sincerely,

Mary Jo White
Chair

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

THE CHAIR

June 14, 2013

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets and
Government Sponsored Enterprises
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Garrett:

Thank you for your May 31, 2013 letter regarding the SEC's plans to use its resources to address information technology gaps, in particular in light of the Madoff Ponzi scheme.

In recent years, the SEC has taken significant steps to enhance the effectiveness of its oversight of the financial markets, including by modernizing a number of our technology systems. We have, for example, established a centralized system and repository for tips, complaints, and referrals, upgraded our enforcement and examination management systems, and improved our risk analysis tools. Although these steps have been important and were much needed, significant additional investments in our technology systems are needed to permit the agency to properly oversee the markets and entities we regulate. I am committed to leveraging modern, reliable, and innovative technologies and predictive analytics to help transform the way the SEC performs its mission. To this end, as you mention, the agency's FY 2014 budget request seeks an additional $56 million in technology investments to support key information technology initiatives designed to achieve efficiencies in business operations and reduce long-term costs.

In addition, in fiscal years 2013, 2014, and 2015, the SEC intends to use the Reserve Fund to plan, architect, procure, develop, and place into operation the systems and analytical tools required to modernize and integrate our disparate systems and databases. The SEC has embarked on a multi-stage Technology Transformation Plan called "Working Smarter," which will be designed to streamline, integrate, and implement business processes and systems. The Technology Transformation Plan will support several vital technology initiatives, including an enterprise-wide data warehouse; seamless integration of structured and unstructured data sources; modernization of SEC.gov and the EDGAR filer system; further enhancements to the tips, complaints, and referrals system; upgrades to the workflow systems supporting the national enforcement and examinations programs; and the promotion of complex, predictive analytical capabilities. These new technology tools and platforms are intended to provide key information to SEC staff with previously unachievable speed and accuracy, resulting in enhanced triage and earlier detection of wrongdoing. The data integration and enhanced analytical tools will allow seamless searches of data sets to examine activity to reveal suspicious behavior and quickly trace the origin.

In particular, the enterprise-wide data warehouse is a critical step in combining currently disparate sources of data from EDGAR filings, exam reports, investigations, external vendors, and many other sources. This organized central data repository will allow enhanced analytical capabilities, predictive modeling, and strengthened governance of data controls and quality standards. It also will deliver enhanced business intelligence; save time by allowing users to quickly search and access critical data from one place; enhance data quality and consistency; and provide historical intelligence by allowing users to analyze different time periods and performance trends in order to make future predictions.

Your letter also refers to Form ADV, the form investment advisers use to register with the SEC, and broker-dealer FOCUS reports, which regulated entities file with the Financial Industry Regulatory Authority (FINRA). In recent years, staff from across the Commission has worked successfully with FINRA to establish data sharing policies and procedures and to consolidate data received from FINRA in a single SEC data repository. Now that the data repository has been built, it receives data from Forms ADV and regular data submissions from FINRA, including from FOCUS reports. Commission staff continually works to improve the repository through additional data sources and the creation of analytical tools that will be used in support of risk-based examinations and surveillance programs.

Finally, it may also be helpful to mention the SEC's enforcement efforts with respect to Ponzi schemes occurring since the Madoff matter. Since fiscal year 2010, the Commission has brought enforcement actions against nearly 200 individuals and 250 entities for carrying out Ponzi schemes. The SEC also has worked closely with the U.S. Department of Justice and other criminal authorities on parallel criminal and civil proceedings against Ponzi scheme operations. In addition, the Commission has introduced enhancements to our regulations intended to prevent or bring to light Ponzi schemes and other types of offering frauds. These initiatives have included enhancements to the custody rule for investment advisers and proposed amendments to the custody and financial responsibility rules for broker-dealers.

Thank you again for your inquiry. Please do not hesitate to contact me at (202) 551-2100 or have a member of your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any additional concerns or comments.

Sincerely,

Mary Jo White
Chair

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

THE CHAIR

August 8, 2013

The Honorable Scott Garrett
Chairman
Subcommittee on Capital Markets and
Government Sponsored Enterprises
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Garrett:

Thank you for your letter of July 22, 2013 concerning the implementation of Title II of the JOBS Act by the Securities and Exchange Commission.

As you know, the JOBS Act required a significant change in the Rule 506 marketplace by mandating that the Commission eliminate the ban on general solicitation in Rule 506 securities offerings. As I stated on July 10, 2013 at the Open Commission Meeting, I believe that the Commission had a responsibility to implement this Congressional mandate expeditiously. I also believe, however, that in connection with the implementation of this JOBS Act mandate, the Commission should closely monitor and collect data on the changes to the Rule 506 market to, among other things, assess whether non-accredited investors are participating in this market, observe the practices that issuers and market participants are using, evaluate whether the changes are creating new capital raising opportunities, and assess whether and to what extent the changes in the private offering market lead to additional fraud. The Commission's proposal to amend Regulation D, Form D, and Securities Act Rule 156,[1] which was approved on July 10th, is designed to provide the Commission with additional tools to assist in this effort. The Commission is very interested in reviewing the comments that it receives on the proposal.

Your letter sets out a series of questions about the Commission's proposal, including the Commission's evaluation of the costs and benefits of certain aspects of the proposal. You also asked that the Commission modify certain aspects of this proposal or withdraw it entirely.

As we are currently in the public comment period for the Commission's July 10th rule proposal, it would be premature to discuss the actions that the Commission may take with respect to the proposal generally or any specific aspect of it. As you know, the Administrative Procedure Act requires the Commission to give the public an opportunity to comment on a rule proposal for a period of time after it is published. We will give your views very careful consideration as part of this process. If a final rule is adopted, it will include a robust economic

[1] *Amendments to Regulation D, Form D, and Rule 156*, Release No. 33-9416 (July 10, 2013).

analysis, including consideration of the costs and benefits of the rule.[2] Because your letter addresses a rulemaking for which the Commission is soliciting public comment, your letter will be added to our official comment file.

You also expressed concern that the issuance of the July 10th rule proposal may have created uncertainty among some issuers and market participants as to whether the new Rule 506(c) exemption, which permits general solicitation, can be used once it becomes effective. The Commission approved the adoption of Rule 506(c) on July 10, 2013, and the rule will be effective on September 23, 2013. Once effective, issuers will be able to rely on the Rule 506(c) exemption for securities offerings as long as they comply with the conditions of that exemption. Issuers are not required to comply with any aspect of the Commission's July 10th rule proposal until such time as the Commission may approve a final rule and such rule becomes effective. Should the Commission ultimately decide to adopt final rules, I expect these rules would consider the need for transitional guidance for ongoing offerings that commenced before the effective date of any final rules, as it did when it adopted the Rule 506(c) exemption.[3]

In your letter, you also requested information about staff time and related expenses dedicated to the Commission's rule proposal. Please note that Commission staff do not track and record their time by specific project and, as a result, this information cannot be generated automatically from existing records. Nonetheless, the staff has gathered certain information in an effort to provide you with an estimate of the staff time spent on this project. To create the estimate, we asked staff who worked on the rule proposal to provide their best estimates of their time spent on it. These staff estimates were based on individuals' recollection of the approximate hours spent working on the rule proposal. Given that the rule proposal was part of a group of Rule 506-related rulemakings considered by the Commission on the same day,[4] it was difficult for staff to isolate the time spent working on each of the rulemakings. While the staff attempted to be as comprehensive as possible, some of the estimates may be overstated or understated. In addition, the time recorded in connection with this response only includes the time spent on the specific proposal considered and approved by the Commission on July 10, 2013. It does not include time spent either before or after the adoption of the JOBS Act in connection with the consideration of matters relating to the regulatory approach to lifting the restriction on general solicitation. Finally, these estimates do not include time spent by the Commissioners and their staff reviewing and considering the proposal, and do not include time spent by Commission staff providing administrative support in connection with the proposal.

---

[2] *See Current Guidance on Economic Analysis in SEC Rulemakings* (Mar. 16, 2012), available at http://www.sec.gov/divisions/riskfin/rsfi_guidance_econ_analy_secrulemaking.pdf.

[3] The Commission provided transitional guidance in the Rule 506(c) adopting release for an ongoing offering under Rule 506 that commenced before the effective date of Rule 506(c). *Eliminating the Prohibition Against General Solicitation and General Advertising in Rule 506 and Rule 144A Offerings*, Release No. 33-9415 (July 10, 2013).

[4] *See Disqualification of Felons and Other "Bad Actors" from Rule 506 Offerings*, Release No. 33-9414 (July 10, 2013); *Eliminating the Prohibition Against General Solicitation and General Advertising in Rule 506 and Rule 144A Offerings*, Release No. 33-9415 (July 10, 2013).

Subject to the limitations and exclusions described above, the staff estimates that approximately 3,538 staff hours were spent on the proposal at an estimated labor cost of approximately $315,574. The labor cost reflects salary, but does not include other components of the Commission's labor cost, such as healthcare and other benefits.

Please contact me at 202-551-2100, or have your staff contact Tim Henseler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any questions or comments.

Sincerely,

Mary Jo White
Chair

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

THE CHAIRMAN

February 15, 2012

The Honorable Scott Garrett
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, DC 20515

Dear Representative Garrett:

Thank you for your December 19, 2011 letter commenting upon our proposal for the registration of municipal advisors. In particular, you expressed concern that the definition of "municipal advisor" in the proposed rules would capture parties and activities that were not anticipated by Congress. You also expressed concern that the rules as proposed would impose duplicative layers of regulation on parties that are already heavily regulated. You stated that the Commission's final rules should exempt from the "municipal advisor" definition those parties who are already regulated, as well as elected or appointed members of the governing bodies of municipal entities.

As you know, on December 20, 2010, the Commission proposed for public comment rules that would govern the registration of municipal advisors and, among other things, proposed guidance and solicited comments on the provision of traditional banking activities within the context of the definition of "investment strategies." We have received over 1,000 comment letters on the proposal, including many that address these important issues, and we are reviewing them carefully.

Regarding non-employee officials, Section 15B(e)(4)(a) of the Securities Exchange Act, as added by the Dodd-Frank Act, provides that the term "municipal advisor" includes a person (who is not a municipal entity or an employee of a municipal entity) that "*provides advice to or on behalf of a municipal entity or obligated person with respect to a municipal financial product or the issuance of municipal securities.*" (emphasis added). Accordingly, our proposal would only require non-employee officials, such as board members of local public entities, to register if they provide advice with respect to a municipal financial product or an issuance of municipal securities to or on behalf of a municipal entity or obligated person, or if they undertake a solicitation of a municipal entity.

Public input is critically important to us in crafting rules. We appreciate your interest in this matter and will certainly give your comments careful consideration before adopting a final rule. Because your letter addresses a rulemaking for which we are soliciting public comment, we have added your letter to our official comment file.

Thank you for your interest in our rulemaking process. Please call me at (202) 551-2100, or have your staff call Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any further questions or comments.

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

THE CHAIRMAN

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

January 5, 2012

The Honorable Scott Garrett
U.S. House of Representatives
2244 Rayburn House Office Building
Washington, DC 20515

Dear Representative Garrett:

Thank you for your letter dated November 4, 2011, regarding the calculation of net equity in the liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act of 1970 ("SIPA"). You raised concerns about the process of paying customers in the BLMIS liquidation and the Commission's oversight of this process.

The BLMIS trustee has allowed 2,425 claims and the Securities Investor Protection Corporation ("SIPC") has committed to advance approximately $798 million to these customers. In addition, the BLMIS trustee has recently made a distribution of approximately $325 million to these customers from the fund of customer property. Although the Commission has general oversight authority over SIPC, it is not a part of the trustee selection process and is not involved in the day to day operations of the liquidation. The Commission is a party to all liquidation proceedings under SIPA and monitors the SIPA proceedings, including the BLMIS proceeding, and may intervene in the bankruptcy court as necessary. The Commission also has examination authority over SIPC and can examine SIPC's process for choosing a trustee and the performance of the trustee during the liquidation, including the trustee's efficiency when processing customer claims and the amount of fees charged by a trustee. Finally, I note that all of the fees associated with the BLMIS liquidation are paid by SIPC and do not affect the amount of money paid to customers.

Thank you again for your letter. Please call me at (202) 551-2100 or have your staff call Eric J. Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) (b)(6) if you have any questions or comments.

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

June 25, 2012

The Honorable Scott Garrett
U.S. House of Representatives
2442 Rayburn House Office Building
Washington, DC 20515

Dear Representative Garrett:

Thank you for your May 30, 2012 letter regarding the rulemaking proposed by the Commission and the other financial regulators to implement section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Better known as the "Volcker Rule," section 619 imposes, among other things, restrictions on a banking entity's ability to engage in proprietary trading and to invest in hedge funds, private equity funds and other similar funds ("covered funds"). In your letter, you express concern about the possible consequences of the proposed rule on Commission-registered funds ("registered funds") and non-U.S. retail funds. Specifically, you voiced concern that (i) registered funds may be deemed to be covered funds and banking entities, and (ii) the proposed rule may have an extraterritorial reach to non-U.S. retail funds.

As you note in your letter, under the proposed rule, registered funds may be included in the definition of covered fund. A covered fund would include any "commodity pool" because, as the agencies explained, a commodity pool is generally structured and managed like a hedge fund or private equity fund. We understand that as a result of the Commodity Futures Trading Commission's interpretation of what constitutes a commodity pool, certain registered funds are deemed to be commodity pools. The proposed rule requested comment on this approach. The Commission is reviewing the comments received on the scope of the proposed definition of covered fund and is evaluating the potential impact on registered funds.

Moreover, as your letter noted, registered funds and non-U.S. funds (together "funds") also may be deemed to be banking entities. Under section 619, a banking entity is defined to include any affiliate or subsidiary of a bank and the proposed rule followed this approach. Under the statute and the proposed rule, an affiliate and subsidiary may, under certain circumstances, include funds, such as when a bank sponsor initially establishes a fund and provides seed capital. A fund that is deemed to be a banking entity would be subject to the Volcker Rule's prohibitions and restrictions on proprietary trading and covered fund activities. The proposed rule requested comment on whether registered investment companies should be expressly excluded from the definition of banking entity. As we review the comments received on the scope of the proposed definition of banking entity, we will consider this comment, along with the other comments on this issue.

Finally, your letter notes that the proposed rule's approach to defining covered fund may result in certain non-U.S. retail funds being deemed to be covered funds. The proposed inclusion of non-U.S. funds in the definition of covered fund was designed to address the possibility of evasion – banks could move their fund operations offshore in an effort to evade the Volcker Rule's prohibitions and restrictions. The proposed rule requested comment on the extraterritorial scope of the proposed rule's definition of "covered fund." The Commission will evaluate all the concerns you raised in your letter as we proceed with the rulemaking process.

Thank you for taking the time to provide us with your views. Your comments will be included in the public comment file for the rulemaking, which is available on the SEC website. Please contact me at (202) 551-2100, or have your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) for further assistance.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

Office of the Comptroller of the Currency
Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission

March 18, 2013

The Honorable Spencer Bachus
Chairman Emeritus
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

Dear Chairmen Bachus and Hensarling:

This correspondence is in response to your letter regarding section 619 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. As you know, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (collectively, "the Agencies") previously proposed rules to implement section 619.

The proposed rules invited comment on a multi-faceted regulatory framework to implement the statute consistent with the statutory language. In addition, the Agencies invited comments on the potential economic impacts of the proposed rule and posed a number of questions seeking information on the costs and benefits associated with each aspect of the proposal, as well as on any significant alternatives that would minimize the burdens or amplify the benefits of the proposal. The Agencies also encouraged commenters to provide quantitative information and data about the impact of the proposal not only on entities subject to section 619, but also on their clients, customers, and counterparties, specific markets or asset classes, and any other entities potentially affected by the proposed rule, including non-financial small and mid-size businesses. The Agencies received more than 18,000 comments regarding the proposed implementing rules and are carefully considering these comments as we work toward development of final rules.

As noted in your letter, by its terms, section 619 became effective on July 21, 2012. As provided by section 619, the Federal Reserve, in consultation with the other Agencies, issued rules governing the period for conforming with section 619 ("Conformance Rule") and, along with the other Agencies, indicated that banking entities are expected to fully conform their activities to the statutory provisions and any final agency rules by the end of the statutory compliance period, which is July 21, 2014 unless extended by the Federal Reserve. The Federal Reserve also explained that it would revisit the Conformance Rule, as necessary, in light of the requirements of the final rules implementing the substantive provisions of section 619. In

doing so, the Federal Reserve will carefully consider your suggestions to extend the conformance period.

The Agencies continue to devote significant time and resources to reviewing the comments submitted during the rulemaking process and developing final rules consistent with the statutory language. To ensure, to the extent possible, that the rules implementing section 619 are comparable and provide for consistent application, the Agencies have been regularly consulting with each other and will continue to do so.

We will carefully consider the issues you note, including the economic impact of any implementing rules, as we continue to develop final rules consistent with the requirements of section 619.

Sincerely,

Ben S. Bernanke
Chairman
Board of Governors of the
Federal Reserve System

Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation

Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency

Elisse B. Walter
Chairman
Securities and Exchange Commission

Gary Gensler
Chairman
Commodity Futures Trading Commission

Office of the Comptroller of the Currency
Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission

March 18, 2013

The Honorable Spencer Bachus
Chairman Emeritus
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
House of Representatives
Washington, D.C. 20515

Dear Chairmen Bachus and Hensarling:

This correspondence is in response to your letter regarding section 619 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*. As you know, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (collectively, "the Agencies") previously proposed rules to implement section 619.

The proposed rules invited comment on a multi-faceted regulatory framework to implement the statute consistent with the statutory language. In addition, the Agencies invited comments on the potential economic impacts of the proposed rule and posed a number of questions seeking information on the costs and benefits associated with each aspect of the proposal, as well as on any significant alternatives that would minimize the burdens or amplify the benefits of the proposal. The Agencies also encouraged commenters to provide quantitative information and data about the impact of the proposal not only on entities subject to section 619, but also on their clients, customers, and counterparties, specific markets or asset classes, and any other entities potentially affected by the proposed rule, including non-financial small and mid-size businesses. The Agencies received more than 18,000 comments regarding the proposed implementing rules and are carefully considering these comments as we work toward development of final rules.

As noted in your letter, by its terms, section 619 became effective on July 21, 2012. As provided by section 619, the Federal Reserve, in consultation with the other Agencies, issued rules governing the period for conforming with section 619 ("Conformance Rule") and, along with the other Agencies, indicated that banking entities are expected to fully conform their activities to the statutory provisions and any final agency rules by the end of the statutory compliance period, which is July 21, 2014 unless extended by the Federal Reserve. The Federal Reserve also explained that it would revisit the Conformance Rule, as necessary, in light of the requirements of the final rules implementing the substantive provisions of section 619. In

doing so, the Federal Reserve will carefully consider your suggestions to extend the conformance period.

The Agencies continue to devote significant time and resources to reviewing the comments submitted during the rulemaking process and developing final rules consistent with the statutory language. To ensure, to the extent possible, that the rules implementing section 619 are comparable and provide for consistent application, the Agencies have been regularly consulting with each other and will continue to do so.

We will carefully consider the issues you note, including the economic impact of any implementing rules, as we continue to develop final rules consistent with the requirements of section 619.

Sincerely,

Ben S. Bernanke
Chairman
Board of Governors of the
Federal Reserve System

Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation

Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency

Elisse B. Walter
Chairman
Securities and Exchange Commission

Gary Gensler
Chairman
Commodity Futures Trading Commission

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

THE CHAIRMAN

March 19, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling:

I am in receipt of your March 5, 2013 letter in which you request information and documents relating to a rulemaking petition that asks the Commission to develop rules requiring public companies to disclose the use of corporate resources for political activities (SEC File No. 4-637).

As you may know, the Commission has received an unusually large number of comment letters related to this rulemaking petition, totaling in excess of 489,500, including approximately 1,600 non-form letters. Although the vast majority of the letters support the rulemaking petition or urge the Commission to develop a rule requiring similar disclosure, we also have received letters that oppose such a rule.

As described in your letter, in late 2012 the Commission included this matter on the *Unified Agenda of Federal Regulatory and Deregulatory Actions*, indicating that the Division of Corporation Finance (Corporation Finance) is "considering whether to recommend that the Commission issue a proposed rule"[1] relating to this matter. Corporation Finance staff still is analyzing whether to recommend issuance of a proposed rule and is not working on a rule proposal concerning corporate political spending. Neither I, the Commission, nor the staff has reached a conclusion as to whether rules on corporate political spending should be pursued.

Your letter makes certain specific requests for information. Included below are responses to those requests.

1. **Please provide all documents and communications between or among the offices of Mary Schapiro, Elisse Walter, or any Commission staff member or outside party since January 1, 2011, referring or relating to the petition to require public companies to disclose the use of corporate resources for political activities (SEC File No. 4-637).**

[1] *See* http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201210&RIN=3235-AL36.

Commission staff is in the process of searching for documents responsive to your request, and has worked with Committee staff to determine the parameters of email searches.

2. **Please provide all documents and communications between or among the offices of Mary Schapiro, Elisse Walter, or any Commission staff member or outside party since January 1, 2011, referring or relating to a potential Commission rule requiring the disclosure of the use of corporate resources for political activities (Unified Agenda Regulation Identifier Number 3235-AL36).**

Commission staff is in the process of searching for documents responsive to your request, and has worked with Committee staff to determine the parameters of email searches.

3. **Please identify the number of employees in the Division of Corporation Finance that have worked or are working on a potential rule requiring the disclosure of the use of corporate resources for political activities.**

As a decision has not been made as to whether to pursue rules related to the disclosure of the use of corporate resources for political activities, no staff members have been assigned to work, or have worked, on a rule proposal. One staff member in Corporation Finance has been assigned to review the comment letters received on the rulemaking petition and research disclosure of political spending to inform any staff recommendation to the Commission regarding whether any action should be taken in response to the petition. Two other staff members in Corporation Finance have spent limited amounts of time reviewing this research and certain comment letters. In addition, a student intern reviewed the comment letters received on the petition.

4. **Please estimate the total value of resources expended on a possible rule requiring the disclosure of the use of corporate resources for political activities, including the time value of employees who have worked or are working on such a rule.**

In estimating the total value of resources expended on a possible rule requiring the disclosure of the use of corporate resources for political activities, we considered the time spent by the four staff members referenced above who were involved in reviewing the comment letters and researching the rulemaking petition. These staff members have spent a total of approximately 370 hours on these activities. The overwhelming majority of this time (approximately 330 hours) represents the review of comment letters and research conducted by the single staff member noted in response to question three. The bulk of the remaining time (approximately 30 hours) represents the review of comment letters by a student intern. We estimate the total cost of those efforts, as measured by the salary of the staff involved, to be approximately $27,000.

5. **Please account for any meetings since January 1, 2011, between Commission staff and outside individuals or groups regarding a potential rule on corporate political spending disclosure.**

To date, staff has identified five meetings with outside parties regarding a potential rule on corporate political spending disclosure, summarized in the attached.

* * * *

Please call me, at (202) 551-2100, or have your staff call Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any questions or comments.

Sincerely,

Elisse B. Walter
Chairman

<u>Staff Meetings Referenced in Response to Question 5</u>

- On December 9, 2011, (b)(6) (b)(6) met with representatives from Lussier, Gregor, Vienna & Associates, AFL-CIO, and Public Citizen.

- On March 16, 2012, Meredith Cross (Director of Division of Corporation Finance), Paula Dubberly (Deputy Director of the Division of Corporation Finance), Jim Burns (Deputy Chief of Staff to the Chairman), (b)(6) (b)(6) and (b)(6) (b)(6) met with representatives from Public Citizen, AFSCME, Lussier, Gregor, Vienna & Associates (representing Calpers), and AFL-CIO.

- On March 26, 2012, Meredith Cross, (b)(6) (b)(6) and (b)(6) met with representatives from the Coalition for Accountability in Political Spending.

- On April 26, 2012, then Commissioner Elisse Walter and (b)(6) (b)(6) met with representatives from Public Citizen, CalPERS, AFSCME, AFL-CIO, and USPIRG.

- On May 8, 2012, Chairman Mary Schapiro, Paula Dubberly, and (b)(6) met with representatives from the Coalition for Accountability in Political Spending.

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

THE CHAIRMAN

September 26, 2012

The Honorable Jeb Hensarling
U.S. House of Representatives
129 Cannon House Office Building
Washington, DC 20515

Dear Representative Hensarling:

Thank you for your August 10, 2012 letter regarding the implementation of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Congo Conflict Minerals provision") as it relates to the impact on American businesses, and small businesses in particular.

In your letter, you expressed concern relating to the estimated costs of implementation, especially as those costs relate to small businesses. Based on these concerns, you urged the Commission to conduct a Small Business Regulatory Enforcement Fairness Act ("SBREFA") review and to adopt a safe harbor that allows public companies to exercise reasonable due diligence and provide measures to reduce their potential liability. You further indicated that the scope of the Congo Conflict Minerals provision and its reporting requirements should not include recycled materials or issuers that "contract to manufacture."

On August 22, 2012, the Commission adopted a new rule and form to implement the Congo Conflict Minerals provision. (Conflict Minerals Release No. 34-67716 (Aug. 21, 2012) available at http://www.sec.gov/rules/final/2012/34-67716.pdf). We received a great deal of public comment on the rule proposal, which informed the Commission in its consideration of the final rule. We believe the new rule effectuates the intent of Congress to require companies, including smaller reporting companies, to provide the mandated disclosure. In developing the final rule, however, we modified the proposed rule and tried to reduce the burden of compliance, while remaining faithful to the language and intent of the Congo Conflict Minerals provision that Congress adopted. For example, the final rule provides a temporary transition period of two years for all issuers, and four years for smaller reporting companies, during which an issuer may describe a product as "DRC conflict undeterminable" and is not required to obtain an audit of its conflict minerals report with respect to such products. In addition, the final rule provides alternative treatment for conflict minerals from recycled or scrap sources. The final rule requires an issuer that determines after a reasonable country of origin inquiry that its conflict minerals came from recycled or scrap sources to file a Form SD that discloses its determination and briefly describes its inquiry and the results of that inquiry, instead of requiring the issuer to provide a conflict minerals report and audit, as was proposed.

Since Congress adopted the Conflict Minerals Statutory Provision in July 2010, we have sought comment on our implementation of the provision, including our proposal, and have ensured that commentators had opportunities to provide their input, both before and after the rules were proposed. We extended the comment period for the rule proposal and convened an October 2011 roundtable at the request of commentators. We continued to receive comment letters through August 2012, all of which we considered. Some commentators provided responses to other commentators, particularly on the economic analysis. This robust, public, and interactive debate allowed us to more fully consider how to develop our final rule. Additionally, we considered and analyzed the numerous comments received regarding the costs and complexities of the statute and proposed rules, and have taken them into account in the final rule.

We understand the importance of adopting a final rule in a deliberate and careful manner and the importance of conducting a SBREFA review. We recognize that the rule will impose significant compliance costs on companies who use or supply conflict minerals and have determined that the rule is a "major" rule under SBREFA. As you know, for purposes of the SBREFA, a rule is "major" if it has resulted, or is likely to result, in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers or individual industries; or significant adverse effects on competition, investment, or innovation. As discussed below, we believe the new rule and form are likely to have an annual effect on the economy well in excess of $100 million.

As explained in the final rule release, we estimate that approximately 5,994 reporting issuers would be subject to some reporting requirement by the final rule. Some of the anticipated costs of the final rule, as estimated by commentators, include those associated with an issuer exercising due diligence on the source and chain of custody of its conflict minerals, obtaining an audit of its conflict minerals report, and modifying its organizational systems to capture and report on conflict minerals information. After analyzing the comments and taking into account additional data and information provided by the commentators, the final rule release explains that we believe it is likely that the initial cost of compliance with the new rule and form will be approximately $3 billion to $4 billion, while the annual cost of ongoing compliance will be in the range of $207 million to $609 million.[1]

We believe that the final rule will affect small entities with necessary conflict minerals, and we were mindful of compliance costs for small business in developing the final rule that implements the statute. In our initial Regulatory Flexibility Act ("RFA") analysis in the proposing release, we estimated that there were approximately 793 issuers for which conflict

[1] With respect to the $71 million cost figure in your letter, please note that was our initial estimate of only the total increase in paperwork burdens associated with the audit and due diligence requirements, as well as the cost of hiring professionals to help prepare the required disclosure as required under the Paperwork Reduction Act. This amount was based primarily on information that we obtained from various stakeholder groups prior to issuing the proposing release. We received additional information from various stakeholder groups subsequent to our proposal, which we evaluated and incorporated in making our cost estimates of the final rule.

minerals are necessary and that may be considered small entities. We derived our estimate of the number of affected small business reporting companies by searching our internal databases for issuers with total assets of less than $5 million in industries that our staff believed were more likely to include companies that manufacture or contract to manufacture products with necessary conflict minerals. As you may know, Exchange Act Rule 0-10(a) defines an issuer to be a "small business" or "small organization" for purposes of the RFA if it had total assets of $5 million or less on the last day of its most recent fiscal year.[2]

Some commentators indicated that we underestimated the number of small entities that would be impacted by the rule for purposes of our RFA analysis, asserting that we should consider small entities that are not directly subject to the requirements of the final rule for purposes of the RFA. Under the RFA, we are required to analyze the impact of the proposed rules on small entities that are directly subject to the requirements of the proposed rules.[3] Although, as we explained in the final rule release, other entities in an affected issuer's supply chain likely would be indirectly affected by the rules, the RFA does not call for an analysis of the effect on these companies.[4] Nonetheless, we did consider the indirect impact on these other companies as part of our economic analysis of the final rule and that impact is included in our approximately $3 billion to $4 billion initial cost of compliance determination and our $207 million to $609 million annual cost of ongoing compliance determination. We note that no commentator provided any other number of small entities or disagreed that 793 is the number that will be directly subject to the final rule, and we continue to estimate that there are approximately 793 small entities that file reports with us under Exchange Act Sections 13(a) and 15(d) and that will be directly subject to the final rule.

Thank you again for your input. Your letter has been included in the public comment file. Please do not hesitate to contact me or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) (b)(6) if you have any additional concerns or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

---

[2] 17 CFR 240.0-10(a).
[3] 5 U.S.C. 603(b).
[4] We note that the Small Business Administration's Office of Advocacy's guide for agencies performing a regulatory flexibility analysis of small entities states that courts have held that the RFA requires an analysis of impacts only on small entities directly subject to the requirements of a rule. See Small Business Administration's Office of Advocacy, A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act, "Direct versus indirect impact," pages 20-21 (June 2010), available at http://archive.sba.gov/advo/laws/rfaguide.pdf.

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

THE CHAIRMAN

April 8, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling:

Thank you for your March 22, 2013 letter regarding the work of the U.S. Securities and Exchange Commission ("Commission") in connection with sections 939A and 939F of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act").

As you know, section 939A of the Dodd-Frank Act required Federal agencies to review the use of credit ratings in rules they administer that require an assessment of creditworthiness and report to Congress within one year any modifications to the rules to remove references to credit ratings. The Commission staff's *Report on Review of Reliance on Credit Ratings* as required by section 939A(c) was issued on July 21, 2011.

To date, the Commission has taken the following actions to remove credit rating references from its rules in response to section 939A:[1]

- In March 2011, the Commission proposed amendments to replace credit ratings references with alternative standards of creditworthiness in the Investment Company Act rule that governs money market fund operations and the rule that addresses the treatment of repurchase agreements for purposes of meeting diversification standards under the Investment Company Act.

- In April 2011, the Commission proposed amendments to rules relating to broker-dealer financial responsibility, distributions of securities, and confirmations of securities transactions in order to remove references to credit ratings in those rules.

- In July 2011, the Commission adopted amendments to replace rule and form requirements under the Securities Act of 1933 and the Exchange Act for securities offerings or issuer disclosure rules that rely on, or make special accommodations for, security ratings (for example, eligibility criteria for short-form registration of offerings of non-convertible securities) with alternative requirements.

[1] The Commission began removing references to credit ratings in its rules prior to enactment of the Dodd-Frank Act.

- Also, in July 2011, the Commission re-proposed the shelf registration requirements for offerings of asset-backed securities to replace the rating requirement with an executive officer certification regarding the securities, a requirement that the transaction documents provide stronger mechanisms for the oversight of the underlying assets, and a requirement aimed at facilitating investor communication.

In addition, the Commission has taken action to address standards of creditworthiness in place of statutory ratings references that the Dodd-Frank Act removed, as provided in section 939:

- In July 2012, the Commission issued an Interpretive Release regarding the terms "mortgage related security" and "small business related security" as defined in the Exchange Act as an interim measure because the Dodd-Frank Act removed references to credit ratings in these definitions effective on the two-year anniversary of enactment of that Act.

- In November 2012, the Commission adopted a rule to establish an alternative creditworthiness standard to replace the reference to credit ratings in an Investment Company Act provision that exempts business industrial development companies (state-regulated investment companies that lend to in-state enterprises and whose investors are primarily in-state) from most provisions of that Act.

We recognize that more remains to be done, and the Commission staff is continuing to devote significant attention to complete the work required by section 939A of the Dodd-Frank Act. A multidisciplinary team comprised of staff from the Division of Trading and Markets, the Division of Corporation Finance, the Division of Investment Management, the Division of Risk, Strategy, and Financial Innovation and the Office of the General Counsel is engaged in these efforts. With respect to the outstanding rule proposals, the staff has reviewed the public comments and is working to prepare recommendations for the Commission.

The Commission also continues to move forward with its other obligations under the Dodd-Frank Act, including in connection with section 939F of that Act. Section 939F required a study and report addressing the following:

- The credit rating process for structured finance products and the conflicts of interest associated with credit rating agency business models;

- The feasibility of establishing a public or private utility, or a self-regulatory organization, to assign Nationally Recognized Statistical Rating Organizations (NRSROs) to rate structured finance products;

- The range of metrics that could be used to determine the accuracy of credit ratings; and

- Alternative means for compensating NRSROs that would create incentives for accurate credit ratings.

To that end, the staff of the Commission prepared a *Report to Congress on Assigned Credit Ratings* that was issued on December 18, 2012. As recommended by the staff in that report, the Commission will be holding a public roundtable. Staff from the Office of Credit Ratings is leading the effort to organize this Commission roundtable. We expect that the concern you raise regarding the importance of competition among credit rating agencies will be one of the considerations discussed during the roundtable. We remain mindful of this issue and are hopeful that the roundtable will provide a forum to explore potential alternatives that could lead to, among other things, increased competition among NRSROs.

Thank you again for your letter. Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] if we can be of further assistance.

Sincerely,

Elisse B. Walter
Chairman

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

THE CHAIR

September 16, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hensarling:

I am in receipt of your August 27, 2013 letter in which you asked for information about the participation by David Blass, Chief Counsel of the SEC's Division of Trading and Markets, in the European Commission's conference in Belgium entitled "Crowdfunding: Untapping its Potential and Reducing the Risks." Your letter also notes that the SEC has not yet promulgated rules implementing the crowdfunding provisions of the Jumpstart Our Business Startups Act (JOBS Act).

As we have discussed, implementing the crowdfunding and other rulemakings required by both the JOBS Act and Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) are a top priority for me. The staff is working to bring a crowdfunding rule proposal before the full Commission for consideration in the near future. Since I joined the Commission in April 2013, we have been making progress in connection with our Congressionally-mandated rulemakings – we completed rulemakings to eliminate the ban on general solicitation in Rule 506 offerings under Regulation D, as required by the JOBS Act, and to disqualify securities offerings involving certain felons and other "bad actors" from reliance on Rule 506, as required by the Dodd-Frank Act. We also have, among other things, issued a proposal to address the cross-border application of rules related to security-based swap transactions, as required under the Dodd-Frank Act.

In response to your questions about the participation of Mr. Blass at the European Commission conference, it is important to note that this event was one of several included in a trip to Europe. In addition to participation in the crowdfunding conference, I understand that Mr. Blass met with a series of representatives of the European Commission, the European Union, the Bank of England, and the U.K.'s Financial Conduct Authority in both Brussels and London to discuss a wide range of important issues regarding the application of U.S. laws and regulations to cross-border security-based swaps transactions and to traditional securities activities, most notably, the operation of Rule 15a-6 under the Exchange Act, which provides conditional exemptions from broker-dealer registration for foreign broker-dealers that engage in certain activities involving U.S. investors. At the time of the trip, the Commission had just issued its cross-border proposal for over-the-counter derivatives.[1] Mr. Blass participated in a number of discussions related directly to matters that are core policy interests in the area, including the ability of firms to compete in the global market place and the extent to which the SEC can appropriately rely on substituted compliance by foreign-domiciled firms with the rule of certain foreign jurisdictions.

In your letter, you requested specific information about Mr. Blass's participation in the European Commission crowdfunding conference. Below please find information provided by the staff in response to your questions.

1. **Do you believe that this international travel was essential to Mr. Blass' role as Chief Counsel of the Division of Trading & Markets?**

As the Chief Counsel of the Division of Trading and Markets, a component of Mr. Blass' duties is to engage and participate in discussions with regulators from other jurisdictions in matters that directly relate to the work of his Division. He is highly qualified to lead such discussions with any foreign regulator, including the senior European officials he met with on this trip. While one component of his trip was to speak before the European Commission crowdfunding conference, much of the trip actually involved Mr. Blass participating in a series of meetings with senior European officials to discuss the cross-border rule proposal and the cross-border application of rules and regulations in the traditional securities markets. These meetings were part of an important effort to inform European regulators and other market participants of the merits of our cross-border rule proposal.

With respect to the European Commission crowdfunding conference, I understand from staff that Mr. Blass' participation in the conference led to clear benefits. The staff did consider the budgetary impact of the trip prior to determining to participate, ultimately deciding that the conference presented a unique opportunity for the SEC to interact with and learn from senior representatives of other countries that have meaningful experience with crowdfunding regulatory structures comparable to the one contemplated by the JOBS Act. Communications with knowledgeable representatives from these countries can provide us with important information that can assist the staff in its preparation of a crowdfunding rule proposal for Commission consideration. At this conference, Mr. Blass learned first-hand from representatives of the U.K.'s Financial Conduct Authority about their experiences with crowdfunding. Mr. Blass' participation also allowed him to establish direct lines of communication with industry participants that currently offer investment-based crowdfunding. He was also able to learn about their operations and risks, as well as the potential successes of crowdfunding. As a senior member of the SEC staff and one of the leaders of the crowdfunding rulemaking effort at the SEC, Mr. Blass was uniquely positioned to engage with foreign regulators and other industry participants to learn from their crowdfunding experiences. Additionally, I understand that the fact that the conference was sponsored by the European Commission, an important regulatory

---

[1] *See* Release No. 34-69490, *Cross-Border Security-Based Swap Activities; Re-Proposal of Regulation SBSR and Certain Rules and Forms Relating to the Registration of Security-Based Swap Dealers and Major Security-Based Swap Participants* (May 1, 2013), http://www.sec.gov/rules/proposed/2013/34-69490.pdf.

body which the SEC frequently interacts with, also factored into the staff's determination to participate in the conference.

2. ***Who approved Mr. Blass' international travel? Please provide the name(s) and title(s) and the reason(s) they authorized the travel.***

Mr. Blass' travel, his participation at the meetings in Brussels and London, and his participation at the European Commission conference were approved by his direct supervisor, James Burns, Deputy Director of the Division of Trading and Markets, and by John Ramsay, Acting Director of the Division of Trading and Markets, in close consultation with Robert Fisher, Acting Director of the SEC's Office of International Affairs. The travel was approved consistent with the reasons described above.

Because the trip involved international travel, Mr. Blass's travel also was authorized by Jeffrey Heslop, the SEC's Chief Operating Officer.

3. ***Please provide an itemized list of Mr. Blass' expenses for his trip to Belgium.***

An itemized list of Mr. Blass' expenses for his trip to Belgium and London is attached to this letter, and is marked as <u>Attachment A</u>.

4. ***Please provide Mr. Blass' complete itinerary for his trip to Belgium***

An itinerary for Mr. Blass' trip is attached to this letter, and is marked as <u>Attachment B</u>.

5. ***Did Mr. Blass or any of his superiors who reviewed and approved his travel consider that his participation by either conference call or video conference would have been a more appropriate use of SEC resources? If not, please provide the specific reasons that Mr. Blass had to personally attend the conference.***

Yes. Before committing to speak at the European Commission conference on crowdfunding, I understand that Mr. Blass discussed with the conference organizers whether it would be feasible to participate by telephone or by video conference. Mr. Blass, however, was asked to participate on a moderated panel in which dialogue among panelists was required. As a result, it was determined that Mr. Blass' participation on an in-person basis was preferable and more practical. Additionally, remote participation at the conference ultimately was not a realistic alternative given the other meetings that were organized with senior European officials and market participants.

6. ***Did any other SEC staff members attend this conference with Mr. Blass? If yes, please provide their names and titles and the business justification for their attendance.***

No other SEC staff member accompanied Mr. Blass to the conference or on the trip.

7. ***How many SEC examiners could have been sent to examine a credit rating agency, an investment adviser, a mutual fund, a security-based swap dealer or a clearinghouse for the cost of Mr. Blass' trip to Brussels, Belgium?***

The total expenses for Mr. Blass' trip – including the non-crowdfunding aspects of the trip – were only a small fraction of the costs of a typical examination of an SEC-registered entity. As such, no examination could be said to have been disrupted, delayed, or failed to be conducted as a result of the trip.

Thank you for your letter. If you require further information, please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Tim Henseler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary Jo White
Chair

Attachments

Attachment A

Expenses for trip to Belgium and London

Air travel:	
Dulles to Brussels, *June 1*	
Brussels to London, *June 4*	
London to Dulles, *June 6*	
Total Air Travel	**$ 2,030.40**
Lodging:	
Brussels, *Meridian Hotel, June 2 - 4*[1]	$ 937.17
London, *Sheraton Heathrow, June 4 – 5*	$ 325.72
London, *Waldorf Hilton, June 5 - 6*	$ 458.89
Total Lodging	**$ 1,721.78**
Ground transportation (taxis/train/parking):	**$ 455.74**
Per diem for foreign travel (meals/expenses):[2]	**$ 929.50**
Booking agent fees:	**$ 49.04**
TOTAL:	**$ 5,246.46**

[1] This includes an early check-in fee on the morning of June 2.

[2] Foreign per diem rates are established monthly by the State Department's Office of Allowances. Separate amounts are established for lodging and for meals and incidental expenses.

Attachment B

Meeting Itinerary for Brussels/London Trip

Monday, June 3

European Commission: Crowdfunding Conference (participation on one panel discussion, attended other panel discussions and conducted several meetings and discussions with foreign regulators and industry participants)
Location: Brussels, Belgium

Maria-Teresa Fabregas, Head of Securities Markets Unit, DG Markt
Location: Brussels, Belgium

Tuesday, June 4

Kay Swinburne, U.K. Conservative Spokesman, Economic and Monetary Affairs
Location: Brussels, Belgium

Susan Baker, U.S. Treasury Representative for Europe
Location: Brussels, Belgium

Olle Schmidt, MEP, Group of the Alliance of Liberals and Democrats for Europe
Location: Brussels, Belgium

Natalia Radichevskaia, Permanent Representation of Luxembourg to EU
Location: Brussels, Belgium

Johannes Erhard, Financial Attaché, Permanent Representation of Germany
Location: Brussels, Belgium

Markus Ferber, Group of the European People's Party, Rapporteur of MIFid,
Location: Brussels, Belgium

Philippe Emin, Financial Attaché, Permanent Representation of France
Location: Brussels, Belgium

Wednesday, June 5

Fabio Braga, U.K. Financial Conduct Authority
Anne Wetherilt – Bank of England
Location: London, England

Susan Cooper, U.K. Financial Conduct Authority
Location: London, England

Thursday, June 6

Anthony Belchambers, Futures and Options Association
Philip Read, Association for Financial Markets in Europe
Location: London, England

Richard Metcalfe, Roger Cogan, Nicola Curtis, Chris Bates, ISDA
Location: London, England

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

THE CHAIRMAN

May 24, 2012

The Honorable Jeb Hensarling
Vice Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Vice Chairman Hensarling:

Thank you for your April 17, 2012 letter regarding the Commission's continuing review of the regulation of money market funds.

As you are aware, money market fund reform is important because of the risk that a run in money market funds poses to investors, to the short-term credit markets, and potentially to American taxpayers. It was less than four years ago that the bankruptcy of Lehman Brothers, Inc. touched off a run on money market funds, with $310 billion withdrawn from prime money market funds in a single week. The result was the freezing of the short-term credit markets on which hundreds of companies, financial institutions, and state and local governments rely for short-term funding. A financial catastrophe and great harm to investors were prevented only by the unprecedented intervention in the markets by the federal government, which included the Treasury Department's temporary money market fund guarantee program.

The Commission's 2010 money market fund reforms, while important, were not designed to prevent run if another money market fund were to experience similar losses. The 2010 reforms did not address the structural aspects of money market funds that make them susceptible to runs, which we deferred for later consideration. Moreover, it may be impossible to stop another run on money market funds before it inflicts substantial damage because the Treasury Department is now statutorily prohibited from using its authority to guarantee money market fund shares as it did during the financial crisis.

Last summer, there were substantial redemptions from prime money market funds as a result of concerns about money market funds' large Eurozone bank exposures, even though there were no losses. If there had been credit losses, the funds may not have been able to withstand the cumulative effect of substantial redemptions and loss in value. In addition, last fall, after a rating agency downgraded a Norwegian bank, two fund sponsors bought holdings from that bank out of their funds so that the funds themselves would not be downgraded and become ineligible investments for many institutional investors. This underscores that, under our current regulatory structure, discretionary sponsor support often is the only way to eliminate problematic or devalued holdings in a money market fund portfolio. As we saw in 2008, however, that sponsor support may not always be available, particularly in a crisis.

A run on money market funds would likely harm smaller, retail money market fund investors disproportionately. The 2008 experience suggests that institutional investors will redeem more quickly, leaving retail investors and small businesses with the bulk of the losses. Many money market funds could be forced to suspend redemptions, leaving the remaining investors unable to make mortgage payments, college tuition payments, or payrolls.

I do want to assure you that I am taking a very deliberate approach to further money market fund reforms. I have directed the staff to carefully explore all of the options available to us before moving forward. If the Commission proposes further rulemaking, I expect that it will be accompanied by a detailed explanation of the need for further reform and an economic analysis of the potential costs and benefits of any proposed rules. I expect that such analysis would include not only the costs to the mutual fund industry, but also the expected benefits to the tens of thousands of money market fund investors as a result of avoiding future runs.

As you note, the Commission has a substantial rulemaking agenda in front of it as a result of the enactment of the Dodd-Frank Act and the JOBs Act. However, a significant priority of the Commission must be to take steps within our statutory authority to address weaknesses revealed during the financial crisis in order to protect investors and avoid another destabilizing disruption to the short term credit markets.

Again, thank you for taking the opportunity to share your views on this very important topic. Please contact me at (202) 551-2100, or have your staff contact Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) for further assistance.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

March 19, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling:

I am in receipt of your March 5, 2013 letter in which you request information and documents relating to a rulemaking petition that asks the Commission to develop rules requiring public companies to disclose the use of corporate resources for political activities (SEC File No. 4-637).

As you may know, the Commission has received an unusually large number of comment letters related to this rulemaking petition, totaling in excess of 489,500, including approximately 1,600 non-form letters. Although the vast majority of the letters support the rulemaking petition or urge the Commission to develop a rule requiring similar disclosure, we also have received letters that oppose such a rule.

As described in your letter, in late 2012 the Commission included this matter on the *Unified Agenda of Federal Regulatory and Deregulatory Actions*, indicating that the Division of Corporation Finance (Corporation Finance) is "considering whether to recommend that the Commission issue a proposed rule"[1] relating to this matter. Corporation Finance staff still is analyzing whether to recommend issuance of a proposed rule and is not working on a rule proposal concerning corporate political spending. Neither I, the Commission, nor the staff has reached a conclusion as to whether rules on corporate political spending should be pursued.

Your letter makes certain specific requests for information. Included below are responses to those requests.

1. **Please provide all documents and communications between or among the offices of Mary Schapiro, Elisse Walter, or any Commission staff member or outside party since January 1, 2011, referring or relating to the petition to require public companies to disclose the use of corporate resources for political activities (SEC File No. 4-637).**

[1] *See* http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201210&RIN=3235-AL36.

Commission staff is in the process of searching for documents responsive to your request, and has worked with Committee staff to determine the parameters of email searches.

2. **Please provide all documents and communications between or among the offices of Mary Schapiro, Elisse Walter, or any Commission staff member or outside party since January 1, 2011, referring or relating to a potential Commission rule requiring the disclosure of the use of corporate resources for political activities (Unified Agenda Regulation Identifier Number 3235-AL36).**

Commission staff is in the process of searching for documents responsive to your request, and has worked with Committee staff to determine the parameters of email searches.

3. **Please identify the number of employees in the Division of Corporation Finance that have worked or are working on a potential rule requiring the disclosure of the use of corporate resources for political activities.**

As a decision has not been made as to whether to pursue rules related to the disclosure of the use of corporate resources for political activities, no staff members have been assigned to work, or have worked, on a rule proposal. One staff member in Corporation Finance has been assigned to review the comment letters received on the rulemaking petition and research disclosure of political spending to inform any staff recommendation to the Commission regarding whether any action should be taken in response to the petition. Two other staff members in Corporation Finance have spent limited amounts of time reviewing this research and certain comment letters. In addition, a student intern reviewed the comment letters received on the petition.

4. **Please estimate the total value of resources expended on a possible rule requiring the disclosure of the use of corporate resources for political activities, including the time value of employees who have worked or are working on such a rule.**

In estimating the total value of resources expended on a possible rule requiring the disclosure of the use of corporate resources for political activities, we considered the time spent by the four staff members referenced above who were involved in reviewing the comment letters and researching the rulemaking petition. These staff members have spent a total of approximately 370 hours on these activities. The overwhelming majority of this time (approximately 330 hours) represents the review of comment letters and research conducted by the single staff member noted in response to question three. The bulk of the remaining time (approximately 30 hours) represents the review of comment letters by a student intern. We estimate the total cost of those efforts, as measured by the salary of the staff involved, to be approximately $27,000.

5. **Please account for any meetings since January 1, 2011, between Commission staff and outside individuals or groups regarding a potential rule on corporate political spending disclosure.**

To date, staff has identified five meetings with outside parties regarding a potential rule on corporate political spending disclosure, summarized in the attached.

* * * *

Please call me, at (202) 551-2100, or have your staff call Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any questions or comments.

Sincerely,

Elisse B Walter

Elisse B. Walter
Chairman

Staff Meetings Referenced in Response to Question 5

- On December 9, 2011, (b)(6) (b)(6) met with representatives from Lussier, Gregor, Vienna & Associates, AFL-CIO, and Public Citizen.

- On March 16, 2012, Meredith Cross (Director of Division of Corporation Finance), Paula Dubberly (Deputy Director of the Division of Corporation Finance), Jim Burns (Deputy Chief of Staff to the Chairman), (b)(6) (b)(6) and (b)(6) (b)(6) met with representatives from Public Citizen, AFSCME, Lussier, Gregor, Vienna & Associates (representing Calpers), and AFL-CIO.

- On March 26, 2012, Meredith Cross, (b)(6) (b)(6) and (b)(6) met with representatives from the Coalition for Accountability in Political Spending.

- On April 26, 2012, then Commissioner Elisse Walter and (b)(6) (b)(6) met with representatives from Public Citizen, CalPERS, AFSCME, AFL-CIO, and USPIRG.

- On May 8, 2012, Chairman Mary Schapiro, Paula Dubberly, and (b)(6) met with representatives from the Coalition for Accountability in Political Spending.

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

THE CHAIR

October 4, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
United States House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hensarling:

Thank you for your September 12, 2013 letter regarding the Securities and Exchange Commission's oversight of private fund advisers, including private equity advisers required to register with the Commission under Title IV of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

As you know, Title IV of the Dodd-Frank Act generally mandated that advisers to private funds with assets under management of at least $150 million register with the Commission. In June 2011, the Commission implemented this requirement when it adopted registration rules for certain advisers to private funds. In addition, Title IV directed the Commission to establish a system of confidential reporting by private fund advisers for the assessment of systemic risk by the Financial Stability Oversight Council (FSOC) or as necessary and appropriate in the public interest and for the protection of investors. In October 2011, the Commission implemented these provisions when it adopted rules requiring certain advisers to private funds to provide information on Form PF.[1] The information collected on Form PF is intended primarily to support FSOC in its assessment of systemic risk. In addition, the SEC is using the information collected on Form PF in its regulatory programs, including examinations, investigations, and investor protection efforts.[2]

Since January 2012, over 1,600 private fund advisers have registered with the Commission for the first time. These advisers became subject to oversight under the Investment Advisers Act in the form of certain business conduct rules and on-site compliance examinations. As a general matter, the Commission's Office of Compliance Inspections and Examinations (OCIE) examines registered advisers to assess whether they are operating in a manner consistent

---

[1] *See* Release No. IA-3308, *Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF* (Oct. 31, 2011), http://www.sec.gov/rules/final/2011/ia-3308.pdf.

[2] *See* U.S. Securities and Exchange Commission, *Annual Staff Report Relating to the Use of Data Collected from Private Fund Systemic Risk Reports*, July 25, 2013. http://www.sec.gov/news/studies/2013/im-annualreport-072513.pdf.

with the federal securities laws. OCIE administers such examinations though the National Examination Program (NEP), whose mission is to protect investors and to maintain market integrity through examinations that promote compliance, prevent fraud, identify risk, and inform policy.

In October 2012, the NEP launched an initiative to conduct focused examinations of newly registered advisers to private funds ("presence exams").[3] Presence exams, which are shorter in duration and more streamlined than typical examinations, are designed both to engage with the new registrants to inform them of their obligations as registered entities and to permit the Commission to examine a higher percentage of new registrants. Pursuant to these objectives, the NEP developed the following list of five focus areas for the presence exams: (1) marketing; (2) portfolio management; (3) conflicts of interest; (4) safety of client assets; and (5) valuation. The NEP took a number of steps to assure the presence exam initiative was transparent with the industry, including sending letters to the senior officer and chief compliance officer of new registrants. These letters described the presence exam focus areas and provided a list of relevant resources, which gave them an opportunity to prepare for the presence exams.[4]

To date, staff has completed 132 presence exams, and approximately 62 more are ongoing. This initiative involved about 10% of the SEC's exam resources, allowing NEP staff to reach more private fund advisers while not significantly detracting from the examination of retail firms.

In addition, as some have noted, the investors ultimately impacted by these newly-registered private fund advisers are not exclusively high net worth investors. Academic research has reported that public and private pensions are the largest investors in private equity funds.[5] It also has been reported that more and more public and private pension funds are investing significant percentages of their portfolios in private funds.[6] As a result, many of the underlying beneficiaries of these private funds are American workers who are or will be relying on a pension fund to support them in retirement. In addition, charities, academic institutions, foundations and endowments may also have indirect exposure to private funds that pursue alternative investment strategies.

---

[3] Although "private funds" generally include liquidity, hedge, private equity, venture capital, real estate and other funds, the presence exams focus primarily on hedge and private equity fund advisers, which constitute the vast majority of the new registrants.

[4] A copy of the presence exam letter sent to new registrants can be found at http://www.sec.gov/about/offices/ocie/letter-presence-exams.pdf.

[5] *See* L. Phalippou and O. Gottschlag, *The Performance of Private Equity Funds*, Review of Financial Studies 22 (2009), 1747-1776; P. Gompers and J. Lerner, *The Venture Capital Cycle* (MIT Press 2006); S. Prowse, *The Economics of the Private Equity Market*, Economic Review (Federal Reserve Bank of Dallas, 1998).

[6] *See* Christopber Matthews, *Why Pension Funds are Hooked on Private Equity*, Time.com, April 15, 2013; Michael Corkery, *Pensions Bet Big with Private* Equity, Wall Street Journal, Jan. 25, 2013.

We understand that many advisers to private funds have taken measures to implement controls reasonably designed to assure compliance with their fiduciary and regulatory obligations, and we are supportive of these efforts. There are, nevertheless, recurring instances of material misconduct. These activities are simply not detectable by even the most sophisticated clients and are better suited to detection through regulatory examination. For example, some investors are unable to determine whether fund assets are subject to appropriate safekeeping or whether the performance represented to them in an account statement is accurate. As you know, the Commission has brought numerous enforcement actions involving private fund advisers related to these matters. The ability of the SEC to identify and prosecute misconduct increases with registration requirements and examinations. The possibility of such examinations can also have a deterrent effect. As such, I believe it is important that we have an appropriate level of oversight of private fund advisers, both for investor protection and market efficiency purposes.

With regard to Form PF, the Commission has only recently received a complete set of initial filings. Since the adoption of Form PF, Commission staff has focused its efforts on (a) implementing an electronic filing system for use by Form PF filers; (b) resolving technical aspects of data security, collection, and delivery; (c) answering questions and providing filer assistance; (d) establishing and overseeing Commission-wide protocols regarding how Form PF data is accessed and protected internally; and (e) providing FSOC, through the Office of Financial Research, assistance in connection with the data collected. Although the primary aim of Form PF was to create a source of data for the FSOC to use in assessing systemic risk, as noted above, the Commission is using the information to support its own regulatory programs, including examinations, investigations, and investor protection efforts relating to private fund advisers. In particular, Commission staff has incorporated Form PF data into proprietary systems that are used for data analysis on the asset management industry, incorporated filings into examination preparation, and continues to work to use data obtained from Form PF to identify and monitor risk taking activities of particular registered advisers and across all private funds managed by registered advisers.

Your letter also references the Commission's recent proposal to amend Regulation D, Form D, and Securities Act Rule 156.[7] Although the proposal, if adopted, would primarily allow the Commission to better monitor market developments resulting from the removal of the general solicitation ban and assess whether it has been implemented, the proposal also includes certain items that are intended to enhance investor protection. For example, the proposal would require a legend in written general solicitation materials to inform potential investors that the offering is limited to accredited investors and, therefore, non-accredited investors are not permitted to participate. The proposal also would extend the antifraud guidance contained in Securities Act Rule 156 to the sales literature of private funds, which would provide a benefit to investors who are considering investing in Rule 506 offerings using general solicitation. To date, the Commission has received more than 450 comment letters on the proposed amendments. To provide the public with additional time to consider the matters addressed by, and comments

[7] *See* Release No. 33-9416, *Amendments to Regulation D, Form D, and Rule 156* (July 10, 2013), http://www.sec.gov/rules/proposed/2013/33-9416.pdf.

submitted on, the proposal, the Commission recently re-opened the comment period until November 4, 2013. As always, we will carefully consider the comments we receive.

In your letter, you asked a series of specific questions. Outlined below are responses to each based on information provided to me by SEC staff.

1. **What specific systemic risk concerns or issues does OCIE review when inspecting advisers to private funds? Does OCIE document these findings in its examination reports?**

As described above, although OCIE staff has employed Form PF both as a supplement to its risk-based examination program and as a helpful tool for examining newly registered advisers, OCIE has not to date reviewed specific systemic risk issues as part of its examinations of private funds. The presence exams discussed above focus on areas of the business and operations of advisers that can pose a significant investor protection risk, such as marketing and safety of client assets.[8] OCIE staff is not aware of any instances to date where the examination program has had cause to document findings in its reports related to specific systemic risk concerns.

2. **Has the SEC established specific, internal inspection guidelines or inspection training programs and educational materials for OCIE examiners regarding the identification of potential system risk concerns posed by advisers to private funds?**

To prepare for the influx of private fund advisers that registered with the Commission following the Dodd-Frank Act, OCIE hired industry experts, conducted training, and created educational materials to tailor its examination program for these new registrants. That said, because the resulting presence examinations were intended to focus on whether private fund advisers are operating in a manner consistent with the federal securities laws, these initiatives and materials did not include information specifically related to the identification of potential systemic risk concerns posed by advisers to private funds.

3. **How many employees hired by the SEC since the enactment of the Dodd-Frank Act have special skills in systemic risk identification and regulation?**

The SEC hires candidates based on a variety of factors, depending on the specific position description and the candidate's educational and professional experience. The SEC generally has not identified systemic risk as a specific, standalone criterion for hiring. The staff has informed me, however, that there are a small number of individuals within the Division of Trading and Markets, OCIE, and the Division of Economic and Risk Analysis hired since enactment of the Dodd-Frank Act whose range of skills related to risk analysis includes systemic risk.

---

[8] Of course, if issues related to the viability of a private fund adviser were to surface during an exam, OCIE would broaden the scope of the exam to review those issues and the effect of any possible failure of such entities.

4. **Please describe the recommendations made by the Financial Stability Oversight Council and/or the Office of Financial Research in developing Form PF to identify potential areas of systemic risk.**

As the information collected on Form PF is intended primarily to support FSOC and its understanding and assessment of systemic risk in the U.S. financial system, Form PF was designed in consultation with staff from other FSOC agencies.[9]

The Dodd-Frank Act directed the Commission to collect information in seven discrete areas from private fund advisers, and also to consider whether to collect additional information in consultation with FSOC. I understand from SEC staff that there was significant collaboration with staff representing other FSOC members on the entirety of Form PF during its development in order to support FSOC's use of the data to assess systemic risk. Although Form PF was not intended to be FSOC's exclusive source of information regarding the private fund industry, it was designed to provide FSOC with information about the basic operations and strategies of private funds to permit FSOC to obtain a baseline understanding of potential systemic risk across both the private fund industry as well as in particular types of private funds, such as hedge funds.

5. **What specific examples of additional requests for information have you issued to advisers to private funds specifically regarding systemic risk?**

The staff is not aware of requests for information issued to advisers to private funds specifically regarding systemic risk, other than as required by Form PF.

6. **Has OCIE or the SEC's Division of Investment Management ever conducted additional investigations of an adviser to a private fund based primarily on systemic risk concerns?**

Neither OCIE nor the Division of Investment Management has conducted examinations of an adviser to a private fund based primarily on systemic risk concerns.

7. **How many advisers to private funds ceased operations in 2012? Did any adviser's closure in 2012 systemically impact the U.S. capital markets? If yes, please provide the name(s) of the advisers and the specific systemic market impact, as the SEC has not previously shared the systemic risk impact presented by any adviser to a private fund with the Committee.**

In 2012, 54 registered investment advisers that identified having at least one private fund client withdrew their registration, either because they went out of business or were no longer offering advisory services that require registration. Staff of the Commission does not believe that any of these withdrawals had a systemic market impact.

---

[9] This includes working with the Commodities Future Trading Commission (CFTC). Form PF can be used by investment advisers to satisfy their filing obligations with both the SEC and CFTC if required.

* * *

I hope that you find this information helpful. If you require further information, please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Tim Henseler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary Jo White
Chair

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

THE CHAIRMAN

April 30, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling:

This is to confirm that Lucas Moskowitz will be detailed to your staff of the House Financial Services Committee for a period not to exceed six months beginning on May 6, 2013, with a right to extend the detail for one additional term of six months if mutually agreeable by all parties. The detail will be governed by a Non-Reimbursable Detail Agreement that I understand Commission staff has been discussing with your staff.

Should you need any additional information, please contact me at (202) 551-2100, or have your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary Jo White
Chair

OFFICE OF
FINANCIAL MANAGEMENT

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

January 10, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling:

In accordance with Section 991 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Securities and Exchange Commission is required to notify Congress within 10 calendar days of the obligation of funds from the Commission's Reserve Fund. This letter is to notify you of two such obligations.

On December 31, 2012, the SEC obligated $9,020,997.60 from the Reserve Fund for the procurement of a suite of hardware, associated software, and labor to support the stand-up of an improved Electronic Data Gathering Analysis and Retrieval (EDGAR) system at the Commission's new Primary Data Center. The infrastructure procured will be built out to mirror the current production system and make improvements to eliminate single points of potential failure, increase redundancy, and support server consolidation. The build out also will include improvements to support increased storage for the EDGAR database and filing documents, along with increased capacity to support anticipated growth in the number of filings submitted through EDGAR. These improvements will provide a good foundation of support for a modernized EDGAR system and provide improved safeguards for continuous support during a disaster.

On January 9, 2013, the SEC obligated $126,367 from the Reserve Fund to complete the first phase delivery of the Enterprise Data Warehouse (EDW) – EDGAR Modernization initiative. This project will create the infrastructure for the SEC to combine together various streams of currently siloed data to help the public gain easier access to more usable market data. The procurement and installation of the EDW is a critical first phase of the larger EDGAR Modernization Initiative. Currently, the majority of the filings the SEC receives are free text files, which are difficult to analyze in aggregate. With the EDW project, investors and other members of the public will be able to more easily search, find, and analyze the public filings submitted to the SEC. The EDW will allow SEC to link the EDGAR filing data with data that it receives from other internal and external sources in order to present a more complete picture of the companies. In addition, SEC investigators will be able to leverage the EDW to better analyze EDGAR filing data, in conjunction with other SEC data, to find outliers that could be investigated further.

We will continue to notify you as further obligations occur. Please do not hesitate to contact me at (b)(6) or have your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) with any additional questions or comments.

Sincerely,

Kenneth A. Johnson
Chief Financial Officer

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

THE CHAIRMAN

April 15, 2013

The Honorable Jeb Hensarling
Chairman, Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hensarling:

I am writing in response to your recent letter to Chairman Walter regarding the Commission's support of a Second Circuit Court of Appeals decision before the Supreme Court in *Gabelli v. SEC*. In that case, the Commission alleged violations of the antifraud provisions of the Securities Exchange Act and the Investment Advisers Act. The Commission alleged that petitioners secretly permitted one mutual fund investor to engage in market timing within the mutual fund in return for an investment in a hedge fund and violated the Advisers Act when they failed to disclose the market timing or the quid pro quo agreement to the fund's board of directors and other investors. The Commission further alleged that petitioners had falsely represented that they were taking all necessary steps to eliminate market timing. Whereas the market timer earned returns of between 73% and 185%, long-term investors lost an average of 24% on their investments as a result of the secret market timing arrangement.

When the district court dismissed portions of the claims in the Commission's complaint, the Commission appealed the dismissal, arguing that the district court erred in four respects, including in holding that the Commission's request for civil penalties was barred by the five-year statute of limitations in 28 U.S.C. § 2462. The Second Circuit Court of Appeals agreed with the Commission and reversed the district court's decision on all four grounds, including on its interpretation of § 2462. The defendants' subsequent challenge to that decision in the Supreme Court addressed only one aspect of the Second Circuit's decision, namely, the statute of limitations issue.

Relying principally on a Supreme Court case holding that the fraud discovery rule applied to an action brought by the government, *Exploration Co. v. United States*, 247 U.S. 435 (1918), the Commission has long taken the view that the discovery rule applies to suspend the limitations period in cases of fraud. The Seventh Circuit and the First Circuit courts of appeals have agreed with the Commission's interpretation. *SEC v. Koenig*, 557 F.3d 736 (7th Cir. 2009); *SEC v. Tambone*, 550 F.3d 106, 148-49 (1st Cir. 2008), *as reinstated by* 597 F.3d 436, 450 (1st Cir. 2010). In *Gabelli v. SEC*, a panel of the Second Circuit Court of Appeals also agreed unanimously that the fraud discovery rule applied in Commission penalty actions, *SEC v. Gabelli*, 653 F.3d 49 (2d Cir. 2011), and the full court voted to deny the defendants' petition for rehearing.

At that point, the *Gabelli* defendants – not the Commission – sought Supreme Court review. Thereafter, as is customary for SEC matters appealed by defendants to the Supreme Court, the Office of the Solicitor General within the Department of Justice determined that it would defend the Commission's position in the Supreme Court appeal. The Commission provided input into that determination, and concurred with it.

Given that three courts of appeals had ratified the Commission's position, the Solicitor General's determination to oppose the appeal was in no way baseless, nor was the theory that the discovery rule was properly read into § 2462 a dubious legal claim. Moreover, the Commission's attempt to hold wrongdoers accountable for their fraud by seeking civil penalties is a proper exercise of the Commission's responsibility to protect public investors. Congress has expressly recognized the importance of civil penalties in the SEC's overall enforcement program: "[t]o be effective, [the SEC's] enforcement program must do more than detect and prosecute law violators and assist in the recovery of investor funds. It must have a strong remedial effect, so that potential law violators will be deterred from engaging in unlawful activity that may lead to swift enforcement action and significant penalties." S. Rep. 101-337 at 4-5 (1990).

In addition, the principal staff from the Commission's Office of the General Counsel (OGC) and Enforcement Division (Enforcement) involved both in appealing the underlying district court action and in assisting the Solicitor General in defending the unanimous determination of the Second Circuit Court of Appeals are appellate or enforcement attorneys. They are not, and would not, be involved in writing rules for the Jumpstart Our Business Startups Act. Their work in this regard was squarely in line with their job responsibilities, which is to enforce the securities laws to protect investors and to defend the Commission's ability to do that effectively when matters are appealed.

Pursuant to your request, the approximate number of SEC staff hours dedicated to the *Gabelli* appeals (both to the Second Circuit and the Supreme Court) are as follows:

Deputy General Counsel, OGC: 10 hours

Solicitor, OGC: 80 hours

Senior Litigation Counsel, OGC:
Approximate time spent on appeal to the Second Circuit: 380 hours
Approximate time spent on appeal to the Supreme Court: 490 hours

Senior Litigation Counsel, OGC:
Approximate time spent on appeal to the Second Circuit: 460 hours
Approximate time spent on appeal to the Supreme Court: 500 hours

Senior Litigation Counsel, OGC:
Approximate time spent on appeal to the Supreme Court: 400 hours

Assistant Chief Litigation Counsel, Enforcement:

Approximate time spent on appeal to the Second Circuit: 6 hours
Approximate time spent on appeal to the Supreme Court: 14 hours

Investigative Staff, Division of Enforcement:

Approximate time spent on appeal to the Second Circuit and to the Supreme Court: less than 20 hours

We estimate the total cost of those efforts, as measured by the salary of the staff involved, to be approximately $220,000. There were no funds paid by the Commission to outside counsel related to these appeals.

Thank you for your inquiry. Please contact me at (202) 551-2100, or have a member of your staff contact Tim Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if we can be of further assistance.

Sincerely,

Mary Jo White

Mary Jo White
Chair

(b)(5)

(b)(5)

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

THE CHAIRMAN

December 14, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510-6075

Re: Annual Report on Nationally Recognized Statistical Rating Organizations

Dear Chairman Johnson:

In accordance with Section 6 of the Credit Rating Agency Reform Act of 2006, I am transmitting a copy of the Annual Report on Nationally Recognized Statistical Rating Organizations.

Sincerely,

Mary L. Schapiro
Chairman

Enclosure

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

THE CHAIR

September 12, 2013

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510-6075

Dear Chairman Johnson:

Thank you for your July 29, 2013 letter concerning the Commission's proposal to amend Regulation D and Form D. In your letter, you urge the Commission to adopt the proposal as soon as possible following the end of the comment period and to consider updating the definition of accredited investor in due course.

The JOBS Act required a significant change in the Rule 506 marketplace by mandating that the Commission eliminate the ban on general solicitation in Rule 506 securities offerings. As I stated during the July 10, 2013 Open Commission Meeting where the rule eliminating the ban was adopted, I believe that the Commission had a responsibility to implement this Congressional mandate expeditiously while remaining focused on strong investor protections. For that reason the Commission adopted at the same open meeting a final rule that excludes bad actors from participating in the Rule 506 market and announced a multi-Divisional working group that will closely monitor and collect data on the changes to the Rule 506 market to, among other things, assess whether non-accredited investors are participating in this market, observe the practices that issuers and market participants are using, evaluate whether the changes are creating new capital raising opportunities, and assess whether and to what extent the changes in the private offering market lead to additional fraud. The Commission's proposal to amend Regulation D, Form D, and Securities Act Rule 156,[1] which also was approved on July 10th, is designed to provide the Commission with additional tools to assist in this effort. The Commission is very interested in reviewing the comments that it receives on the proposal. We will give your views very careful consideration as part of this process. Because your letter addresses a rulemaking for which the Commission is soliciting public comment, your letter will be added to our official comment file.

Again, thank you for sharing your views. Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Tim Henseler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] if you have any additional concerns or comments.

Sincerely,

Mary Jo White
Chair

---

[1] *Amendments to Regulation D, Form D, and Rule 156*, Release No. 33-9416 (July 10, 2013).

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

OFFICE OF
MINORITY AND WOMEN
INCLUSION

April 10, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Johnson:

Section 342(e) of the Dodd-Frank Wall Street Reform and Recovery Act of 2010 (Public Law 111-203) requires an annual report regarding activities by the Commission and its Office of Minority and Women Inclusion relating to diversity in management, employment, and business activities. Enclosed please find a copy of the report prepared by the staff of the Commission.

Sincerely,

Pamela A. Gibbs
Director

Enclosure

OFFICE OF MINORITY AND WOMEN INCLUSION

ANNUAL REPORT

As Required by Section 342(e) of the
Dodd-Frank Wall Street Reform and Recovery Act of 2010

This is a report prepared by the Staff of the Office of Minority and Women Inclusion of the U.S. Securities and Exchange Commission. The Commission has expressed no view regarding the analysis, findings, or conclusions contained herein.

April 10, 2012

I. Introduction

The Office of Minority and Women Inclusion ("OMWI") of the U.S. Securities and Exchange Commission (the "SEC" or the "Commission") submits this report pursuant to Section 342(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act").

Section 342(e) mandates the submission by OMWI to Congress of an annual report that includes the following:

1. a statement of the total amounts paid to contractors during the reporting period;
2. the percentage of the amounts paid to contractors that were paid to minority-owned and women-owned businesses;
3. the successes achieved and challenges faced by the agency in operating minority and women outreach programs;
4. the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses; and,
5. any other information, findings, conclusions, and recommendations for legislative or agency action, as the OMWI Director determines appropriate.[1]

Unless otherwise noted, this report covers Section 342-related activities at the SEC from the establishment of OMWI in July 2011 through the fiscal year ended September 30, 2011.

II. Establishment of OMWI at the SEC

Section 342 of the Dodd-Frank Act ("Section 342") requires the SEC to establish an Office of Minority and Women Inclusion to be responsible for "all matters of the agency relating to diversity in management, employment, and business activities."[2] The SEC formally established its Office of Minority and Women Inclusion in July 2011, when the House and Senate Appropriations Committees approved the SEC's reprogramming request to create the office. The SEC began the hiring process for a permanent OMWI Director soon thereafter and announced the selection of the permanent OMWI Director in December 2011. The permanent OMWI Director officially joined the office in January 2012.

Among many duties, the OMWI Director is responsible for developing standards for equal employment opportunity and diversity of the workforce and senior management of the SEC, the increased participation of minority-owned and women-owned businesses in the SEC's programs and contracts, and assessing the diversity policies and practices of entities regulated by

---

[1] Section 342(e).

[2] Section 342(a)(1)(A).

the SEC.[3] The OMWI Director also is required to advise the Chairman of the Commission on the impact of the SEC's policies and regulations on minority-owned and women-owned businesses.[4]

III. Implementation of Section 342

A. Contracting With Minority-Owned and Women-Owned Businesses

Section 342(e)(1) and (2) requires the SEC to report the total amount paid to contractors during the reporting period, as well as the amounts and related percentages paid to minority-owned and women-owned businesses. During FY 2011, the SEC awarded $228 million to contractors. Of this $228 million, the SEC awarded $38.38 million (16.8%) to minority-owned businesses and $15.69 million (6.9%) to women-owned businesses. This represents an increase in dollars paid to minority-and women-owned businesses when compared to FY 2010 and FY 2009 data. In 2010, the SEC awarded a total of $223 million dollars to contractors; of that, 10% was paid to minority-owned businesses and 12% was to women-owned businesses. This represented an increase from FY 2009.[5]

Section 342(e)(3) also requires the SEC to report the successes achieved and challenges faced in operating minority and women outreach programs. Since the establishment of the OMWI office in July 2011, the SEC has focused on proactively increasing the awareness of the SEC's contracting needs within the minority-owned and women-owned business communities.

Our successes in operating minority and women outreach programs included the following:

- In FY 2011, the SEC exceeded all U.S. Small Business Administration-defined socioeconomic goals for the number of contracts awarded to small businesses, with the exception of the 3% goal for those businesses located in Historically Underutilized Business Zones.

- OMWI sponsored and attended conferences and participated in business matchmaking sessions to increase the interaction between minority and women suppliers and the SEC, including the national conferences for the following organizations: the Minority Corporate Counsel Association, the National Association of Minority and Women-Owned Law Firms, the United States Hispanic Chamber of Commerce, the National Minority Supplier Development Council, and FraserNet Power Networking.

---

[3] Section 342(b)(2)(A)-(C).

[4] Section 342(b)(3).

[5] In 2009, the SEC awarded a total of $151 million to contractors; $14 million to minority-owned businesses and $10 million to women-owned businesses.

- OMWI created a dedicated email address, telephone line, and brochure to facilitate communication and outreach to the minority-owned and women-owned business communities. As a result, many minority-owned and women-owned businesses are contacting OMWI directly to learn more about the SEC's contracting needs.

- OMWI hosts a monthly "Vendor Outreach Day" at the SEC for small, minority-owned, and women-owned businesses to learn about the SEC's contracting needs and to present their services to OMWI's Supplier Diversity Officer and other key SEC personnel. Since August 2011, OMWI has seen over fifty (50) vendors.

  OMWI is actively involved in the agency's acquisition review process to advocate for the inclusion of a diversity component in the competitive process.

Our challenges in operating minority and women outreach programs included the following:

- In FY 2011, OMWI had limited staff as the office was newly created and was unable to provide in-depth technical assistance to minority-owned and women-owned businesses. In FY 2012, we are in the process of hiring more staff and will have the resources to provide businesses seeking contracts with the SEC with a comprehensive overview of the contracting process from the proposal phase to the contract award phase, including an overview of the process of bidding on a requirement.

B. Employment of Minorities and Women at the SEC

Section 342(e)(4) requires the SEC to report on challenges it may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses.[6] As of the end of FY 2011, there were 3,826 employees in the SEC's workforce, of which 1,204 employees (31.5%) were minorities and 1,839 employees (48.1%) were women. Of the 1,204 minority employees and 1,839 women employees, respectively, 440 minorities (36.5%) and 843 women (45.8%) were employed in the major SEC occupations of attorneys, accountants, and compliance examiners. Of the 1,129 supervisory and management positions, a total of 178 minorities (15.8%) and 332 women (29.4%) were in these positions. The SEC is taking proactive steps to increase the recruitment of underrepresented demographic groups at the agency in the major occupations of attorneys, accountants, and compliance examiners. In addition, the SEC continues to evaluate ways to address the underrepresentation of minorities and women in supervisory and management positions.

The SEC is working toward a unified agency approach to recruitment and hiring that incorporates a comprehensive understanding of the value of workforce diversity. To increase awareness of the agency's workforce diversity challenges, OMWI began meeting with the

[6] Our challenges in contracting with qualified minority-owned and women-owned businesses are discussed under Section III.A of this report.

leadership and hiring managers of each division and office to review employee demographic data and to discuss methods to enhance the SEC's recruitment and hiring efforts to include a wider pool of diverse applicants. The OMWI Director continues to convene these meetings in an ongoing effort to improve the agency's workforce diversity.

OMWI actively partnered with the SEC's Office of Human Resources to enhance the SEC's diversity recruiting efforts, particularly for the recruitment of attorneys, accountants, managers, and senior officers. In addition, OMWI collaborated with the Office of Human Resources to initiate the development of a system to track candidates that submitted resumes to the agency or agency representatives at outreach events and through referrals.

OMWI also worked with the SEC's Office of Equal Employment Opportunity to host regular meetings in Washington D.C. with the local chapter leaders of many national minority professional organizations, including the Association of Latino Professionals in Finance and Accounting, the National Black MBA Association, and the Hispanic National Bar Association, to disseminate information about SEC employment opportunities to their members and networks. To increase the reach of our recruitment and hiring efforts, OMWI will continue to strategically leverage and expand these partnerships and alliances to include more organizations and their local chapter affiliates in our regional office locations. It is too early to assess the impact of these partnerships and alliances as most were initiated during FY 2011.

Under the leadership of the recently appointed permanent OMWI Director, the SEC is developing an agency-wide diversity and inclusion strategic plan that incorporates the requirements of Section 342, the August 2011 White House Diversity and Inclusion Executive Order, and the Government-Wide Diversity and Inclusion Strategic Plan. This strategic plan will focus on the recruitment, hiring, mentoring, career development, promotion, and retention of diverse employees. Moreover, the strategic plan will include standards that will allow the SEC to self-assess its ongoing diversity and inclusion efforts. The plan is expected to be completed by May 1, 2012.

C. Other Information, Findings, Conclusions, and Recommendations

Section 342(e)(5) requires the SEC to report any other information, findings, conclusions, and recommendations for legislative or agency action, as the OMWI Director determines appropriate. Beginning in early 2011, the SEC staff, along with the directors and representatives from the other OMWI agencies,[7] participated in interagency meetings to develop comprehensive approaches to implementing the requirements of Section 342. These meetings were also used to draft proposed language for the written statement on the fair inclusion of women and minorities

[7] Section 342(g)(1).

in contracting activities[8] and to discuss appropriate standards for assessing the diversity policies and practices of the entities regulated by each agency.[9] Given that several OMWI agencies may concurrently regulate certain entities, a primary focus of the interagency group was to avoid the establishment of conflicting diversity standards upon these regulated entities. In early 2012, the OMWI directors held a joint roundtable with financial industry groups and trade organizations to foster a meaningful, informed dialogue regarding the development of standards for assessing the diversity policies and practices of regulated entities. The OMWI directors continue to convene these interagency meetings and roundtables on an as-needed basis.

In addition, several trade groups, regulated entities, and minority professional organizations have requested informal meetings with our OMWI Director. Our OMWI Director meets with representatives of these groups and, to the extent necessary, facilitates their introduction to the other OMWI directors.

IV. For Further Information

Should you require any further information regarding this report, please contact Pamela Gibbs, Director, Office of Minority and Women Inclusion, at (202) 551-6046 or Julie Davis, Deputy Director, Office of Legislative and Intergovernmental Affairs, at (202) 551-2233.

[8] Section 342(c)(2).

[9] Section 342(b)(2)(C).

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

THE CHAIRMAN

September 26, 2012

The Honorable Bill Johnson
U.S. House of Representatives
317 Cannon House Office Building
Washington, DC 20515

Dear Representative Johnson:

Thank you for your August 10, 2012 letter regarding the implementation of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Congo Conflict Minerals provision") as it relates to the impact on American businesses, and small businesses in particular.

In your letter, you expressed concern relating to the estimated costs of implementation, especially as those costs relate to small businesses. Based on these concerns, you urged the Commission to conduct a Small Business Regulatory Enforcement Fairness Act ("SBREFA") review and to adopt a safe harbor that allows public companies to exercise reasonable due diligence and provide measures to reduce their potential liability. You further indicated that the scope of the Congo Conflict Minerals provision and its reporting requirements should not include recycled materials or issuers that "contract to manufacture."

On August 22, 2012, the Commission adopted a new rule and form to implement the Congo Conflict Minerals provision. (Conflict Minerals Release No. 34-67716 (Aug. 21, 2012) available at http://www.sec.gov/rules/final/2012/34-67716.pdf). We received a great deal of public comment on the rule proposal, which informed the Commission in its consideration of the final rule. We believe the new rule effectuates the intent of Congress to require companies, including smaller reporting companies, to provide the mandated disclosure. In developing the final rule, however, we modified the proposed rule and tried to reduce the burden of compliance, while remaining faithful to the language and intent of the Congo Conflict Minerals provision that Congress adopted. For example, the final rule provides a temporary transition period of two years for all issuers, and four years for smaller reporting companies, during which an issuer may describe a product as "DRC conflict undeterminable" and is not required to obtain an audit of its conflict minerals report with respect to such products. In addition, the final rule provides alternative treatment for conflict minerals from recycled or scrap sources. The final rule requires an issuer that determines after a reasonable country of origin inquiry that its conflict minerals came from recycled or scrap sources to file a Form SD that discloses its determination and briefly describes its inquiry and the results of that inquiry, instead of requiring the issuer to provide a conflict minerals report and audit, as was proposed.

Since Congress adopted the Conflict Minerals Statutory Provision in July 2010, we have sought comment on our implementation of the provision, including our proposal, and have ensured that commentators had opportunities to provide their input, both before and after the rules were proposed. We extended the comment period for the rule proposal and convened an October 2011 roundtable at the request of commentators. We continued to receive comment letters through August 2012, all of which we considered. Some commentators provided responses to other commentators, particularly on the economic analysis. This robust, public, and interactive debate allowed us to more fully consider how to develop our final rule. Additionally, we considered and analyzed the numerous comments received regarding the costs and complexities of the statute and proposed rules, and have taken them into account in the final rule.

We understand the importance of adopting a final rule in a deliberate and careful manner and the importance of conducting a SBREFA review. We recognize that the rule will impose significant compliance costs on companies who use or supply conflict minerals and have determined that the rule is a "major" rule under SBREFA. As you know, for purposes of the SBREFA, a rule is "major" if it has resulted, or is likely to result, in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers or individual industries; or significant adverse effects on competition, investment, or innovation. As discussed below, we believe the new rule and form are likely to have an annual effect on the economy well in excess of $100 million.

As explained in the final rule release, we estimate that approximately 5,994 reporting issuers would be subject to some reporting requirement by the final rule. Some of the anticipated costs of the final rule, as estimated by commentators, include those associated with an issuer exercising due diligence on the source and chain of custody of its conflict minerals, obtaining an audit of its conflict minerals report, and modifying its organizational systems to capture and report on conflict minerals information. After analyzing the comments and taking into account additional data and information provided by the commentators, the final rule release explains that we believe it is likely that the initial cost of compliance with the new rule and form will be approximately $3 billion to $4 billion, while the annual cost of ongoing compliance will be in the range of $207 million to $609 million.[1]

We believe that the final rule will affect small entities with necessary conflict minerals, and we were mindful of compliance costs for small business in developing the final rule that implements the statute. In our initial Regulatory Flexibility Act ("RFA") analysis in the proposing release, we estimated that there were approximately 793 issuers for which conflict

[1] With respect to the $71 million cost figure in your letter, please note that was our initial estimate of only the total increase in paperwork burdens associated with the audit and due diligence requirements, as well as the cost of hiring professionals to help prepare the required disclosure as required under the Paperwork Reduction Act. This amount was based primarily on information that we obtained from various stakeholder groups prior to issuing the proposing release. We received additional information from various stakeholder groups subsequent to our proposal, which we evaluated and incorporated in making our cost estimates of the final rule.

minerals are necessary and that may be considered small entities. We derived our estimate of the number of affected small business reporting companies by searching our internal databases for issuers with total assets of less than $5 million in industries that our staff believed were more likely to include companies that manufacture or contract to manufacture products with necessary conflict minerals. As you may know, Exchange Act Rule 0-10(a) defines an issuer to be a "small business" or "small organization" for purposes of the RFA if it had total assets of $5 million or less on the last day of its most recent fiscal year.[2]

Some commentators indicated that we underestimated the number of small entities that would be impacted by the rule for purposes of our RFA analysis, asserting that we should consider small entities that are not directly subject to the requirements of the final rule for purposes of the RFA. Under the RFA, we are required to analyze the impact of the proposed rules on small entities that are directly subject to the requirements of the proposed rules.[3] Although, as we explained in the final rule release, other entities in an affected issuer's supply chain likely would be indirectly affected by the rules, the RFA does not call for an analysis of the effect on these companies.[4] Nonetheless, we did consider the indirect impact on these other companies as part of our economic analysis of the final rule and that impact is included in our approximately $3 billion to $4 billion initial cost of compliance determination and our $207 million to $609 million annual cost of ongoing compliance determination. We note that no commentator provided any other number of small entities or disagreed that 793 is the number that will be directly subject to the final rule, and we continue to estimate that there are approximately 793 small entities that file reports with us under Exchange Act Sections 13(a) and 15(d) and that will be directly subject to the final rule.

Thank you again for your input. Your letter has been included in the public comment file. Please do not hesitate to contact me or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at [redacted] if you have any additional concerns or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

---

[2] 17 CFR 240.0-10(a).
[3] 5 U.S.C. 603(b).
[4] We note that the Small Business Administration's Office of Advocacy's guide for agencies performing a regulatory flexibility analysis of small entities states that courts have held that the RFA requires an analysis of impacts only on small entities directly subject to the requirements of a rule. See Small Business Administration's Office of Advocacy, A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act, "Direct versus indirect impact," pages 20-21 (June 2010), available at http://archive.sba.gov/advo/laws/rfaguide.pdf.

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

THE CHAIRMAN

April 11, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Johnson:

Enclosed is the Study on the Cross-Border Scope of the Private Right of Action Under Section 10(b) of the Securities Exchange Act of 1934 ("section 10(b)") mandated by section 929Y of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act"). Attached as well is a separate statement by Commissioner Luis A. Aguilar regarding the study.

The Dodd-Frank Act's requirement that the Commission study this issue emanated from a June 24, 2010 decision of the U.S. Supreme Court in Morrison v. National Australia Bank, 130 S.Ct. 2869 (2010). The enclosed study, which was prepared by the Commission staff, provides a comprehensive overview of the Morrison case, the underlying issues related to cross-border securities frauds, the views of public commenters on the issues presented by the Morrison case, the different approaches lower courts have taken since the Morrison decision was issued, and the various options that Congress may wish to consider to address issues raised by the case.

Speaking only for myself, I believe that the conduct and effects standard that the Commission and the Solicitor General recommended in the Morrison case, or the conduct and effects standard enacted in Dodd-Frank Section 929P(b) for Commission and Department of Justice actions, would provide better overall protection of investors than the transactional standard adopted in Morrison.

The staff and I are available to answer any questions you may have and would be pleased to work with you in developing any legislative solution. Please feel free to contact me at 202-551-2100 or have your staff contact Eric J. Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

Enclosures

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

THE CHAIRMAN

December 20, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510-6075

Dear Chairman Johnson:

As mandated by Section 961(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, I am submitting the Securities and Exchange Commission's report and certification of internal supervisory controls over the conduct of examinations of registered entities, enforcement investigations, and review of corporate financial securities filings.

If you have any questions or comments about the report or certification, please contact me at 202-551-2100, or have a member of your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Elisse B Walter

Elisse B. Walter
Chairman

Enclosure

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

THE CHAIRMAN

June 29, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Johnson:

Section 915 of the Dodd-Frank Wall Street Reform and Consumer Protection Act added Section 4(g) to the Securities Exchange Act of 1934 to establish within the Securities and Exchange Commission an Office of the Investor Advocate. The Investor Advocate is designated as the head of the Office and is required by statute to report on the Office's objectives for the following fiscal year not later than June 30 of each year after 2010.

The passage of the Commission's Fiscal Year 2012 appropriation in P.L. 112-74 provided authority and funding to establish the Office. Currently, there are two job postings for the Investor Advocate open on USAJOBS. In order to attract strong candidates with relevant experience, we posted for both an attorney and non-attorney position. The deadline for applications is July 3, 2012. Until the Investor Advocate is officially onboard, other divisions and offices of the Commission are performing many of the functions that are contemplated to be performed by the Office of the Investor Advocate.

For example, on June 12, 2012, the Office of Investor Education and Advocacy (OIEA) facilitated the inaugural meeting of the new Investor Advisory Committee required under Section 911 of Dodd-Frank. One of the main purposes of the Investor Advisory Committee is to advise and consult with the Commission on the regulatory priorities of the Commission. At the inaugural meeting, the Investor Advisory Committee voted for officers and approved its Charter and By-Laws. On June 18th a telephonic meeting with the officers established the subcommittees of the Investor Advisory Committee.

OIEA also assists retail investors in resolving significant problems these investors may have with the Commission or with self regulatory organizations (SROs), handling complaints and questions from retail investors on a daily basis. During FY 2011, OIEA closed 33,632 files related to complaints, questions, and other contacts received from investors. When an investor raises a significant issue about the Commission's actions or the staff's handling of a matter, a referral is made to the Commission's Office of the Inspector General. If an investor raises a significant issue about an SRO, a referral is made to the Commission's Division of Trading and

Markets. The Division of Trading and Markets also receives communications directly from the public about problems investors may have with SROs.

Generally speaking, the federal securities laws require the Commission to consider the protection of investors and the public interest in its regulatory actions. The divisions and offices support the Commission in fulfilling this requirement. In discharging this responsibility, the Commission solicits comment from the public on its rulemakings and regularly receives comments from investors. OIEA often provides input into Commission rule proposals as they are being developed and drafted, focusing on helping to ensure that the interests of retail investors are reflected in the rulemaking. The new Investor Advisory Committee will advise and consult with the Commission on the Commission's regulatory priorities from the perspective of investors. With respect to SRO rulemakings, the Division of Trading and Markets regularly reviews these rules through the SRO rulemaking process and considers any comments received from investors. Finally, OIEA conducts investor testing on Commission-required disclosure documents with the goal of improving the content, format, and delivery of that information for particular investment products.

In conclusion, the Commission currently engages in a number of activities to support the goals of investor protection. Until the Office of the Investor Advocate is fully staffed, we will continue to seek to fulfill the functions of the Office through the work of the OIEA and other divisions and offices. If you have any questions, please do not hesitate to contact me at (202) 551-2100 or have your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6)

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIR

November 6, 2013

The Honorable Bill Johnson
U.S. House of Representatives
1710 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Johnson:

Thank you for your September 20, 2013 letter expressing your concern that financial reporting obligations of companies under generally accepted accounting principles in the United States (U.S. GAAP) are not consistent with pension funding rules, including recent changes made to pension funding obligations under Public Law 112-141, the "Moving Ahead for Progress in the 21st Century Act" (MAP-21).

As you know, the objective of financial reporting under U.S. GAAP is to provide information that is useful to investors and others in their decision-making process. The Commission has broad authority and responsibilities under the federal securities laws to specify standards for financial disclosure by public companies. The Commission has historically looked to private sector, independent standard setting bodies to assist in developing accounting standards. In 2003, the Commission issued a policy statement that recognized the accounting standards of the Financial Accounting Standards Board (FASB) as "generally accepted" for purposes of the federal securities laws.

Currently, the FASB is performing research in connection with the next phase of its project to comprehensively reconsider employers' accounting for pension and other postretirement benefits. The purpose of the project is to improve the quality of the information provided to investors, creditors, and other financial statement users. The proposed scope of the project includes reconsideration of the manner in which employers are required to determine the discount rate for purposes of calculating their pension and other postretirement benefit obligations under current U.S. GAAP.

Staff in the Commission's Office of the Chief Accountant is actively engaged in overseeing the FASB's project on accounting for pension and other postretirement benefits as well as all other FASB project activities, and in monitoring whether the FASB's accounting standards provide investors with the information they need in order to make investment decisions. Our staff monitors the FASB's open process that allows for broad public exposure of documents and consultation with various advisory groups, task forces, and working groups of constituents. The FASB seeks feedback from groups such as individual investors, institutional investors, lenders, analysts, auditors, financial statement preparers, regulators, academics, and various other parties. This process is essential to ensuring that accounting standards remain current, while promoting credible, comparable financial information.

We understand that the FASB expects to consider the results of its staff research in meetings this fall.

Thank you for your interest in this important issue. Please contact me at (202) 551-2100, or have your staff contact Tim Henseler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted] if you have any questions or comments.

Sincerely,

Mary Jo White
Chair

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

April 30, 2013

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Johnson:

Per your request of January 16, 2013, the Commission has authorized your staff to review at the Commission an unredacted copy of a report of the Commission's Office of the Inspector General entitled "Investigation Into Misuse of Resources and Violations of Information Technology Security Policies Within the Division of Trading and Markets" ("OIG-557"). The report concerns mismanagement of a computer security lab that supports an inspection program run by the Commission's Division of Trading and Markets.

In addition to providing your staff with access to review unredacted copy of OIG-557, the Commission also will make available to your staff for review unredacted copies of the reports that document the forensic analyses performed on certain SEC laptops used by the security lab. Specifically, the Commission has authorized your staff to review the following reports:

- a September 26, 2012 report of Stroz Friedberg LLC;
- a November 13, 2012 Report of the FDIC OIG Electronic Crimes Units;
- a January 31, 2013 SEC OIT Security Operations Digital Media Analysis Team report of examination; and
- a March 28, 2013 Report of Investigation in Case No. OIG-577, entitled "Follow-up Investigation Relating to Forensic Analysis of Division of Trading and Markets Laptops" ("OIG-577").

Finally, a redacted copy of OIG-577 is enclosed.

Consistent with the ordinary practice of Congressional committees, we request that this letter and all information from the reports that has not previously been released be kept nonpublic.

Please call me at (b)(6) if you have any further questions regarding this matter.

Yours truly,

Timothy B. Henseler
Acting Director

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

April 30, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hensarling:

Enclosed please find a redacted copy of the Securities and Exchange Commission's ("Commission") Office of Inspector General ("OIG") report entitled "Follow-up Investigation Relating to Forensic Analysis of Division of Trading and Markets Laptops" ("OIG-557"). The report is the second by the OIG concerning mismanagement of a computer security lab that supports an inspection program run by the Commission's Division of Trading and Markets.

The report contains redactions that were principally made to protect personally identifiable or other information, the release of which could result in an invasion of personal privacy. Where the names of Commission employees have been removed, the names have been replaced where they appear in the report with information sufficient to identify their roles as Commission staff.

Consistent with the ordinary practice of Congressional committees, we request that this letter and all information from the report that has not previously been released be kept nonpublic.

Please call me at (b)(6) if you have any further questions regarding this matter.

Yours truly,

Timothy B. Henseler
Acting Director

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

April 30, 2013

The Honorable Chuck Grassley
United States Senate
135 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Grassley:

Enclosed please find a redacted copy of the Securities and Exchange Commission's ("Commission") Office of Inspector General ("OIG") report entitled "Follow-up Investigation Relating to Forensic Analysis of Division of Trading and Markets Laptops" ("OIG-557"). The report is the second by the OIG concerning mismanagement of a computer security lab that supports an inspection program run by the Commission's Division of Trading and Markets.

The report contains redactions that were principally made to protect personally identifiable or other information, the release of which could result in an invasion of personal privacy. Where the names of Commission employees have been removed, the names have been replaced where they appear in the report with information sufficient to identify their roles as Commission staff.

Consistent with the ordinary practice of Congressional committees, we request that this letter and all information from the report that has not previously been released be kept nonpublic.

Please call me at (b)(6) if you have any further questions regarding this matter.

Yours truly,

Timothy B. Henseler
Acting Director

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

April 30, 2013

The Honorable Tom Coburn
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
344 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Ranking Member Coburn:

Enclosed please find a redacted copy of the Securities and Exchange Commission's ("Commission") Office of Inspector General ("OIG") report entitled "Follow-up Investigation Relating to Forensic Analysis of Division of Trading and Markets Laptops" ("OIG-557"). The report is the second by the OIG concerning mismanagement of a computer security lab that supports an inspection program run by the Commission's Division of Trading and Markets.

The report contains redactions that were principally made to protect personally identifiable or other information, the release of which could result in an invasion of personal privacy. Where the names of Commission employees have been removed, the names have been replaced where they appear in the report with information sufficient to identify their roles as Commission staff.

Consistent with the ordinary practice of Congressional committees, we request that this letter and all information from the report that has not previously been released be kept nonpublic.

Please call me at (b)(6) [redacted] if you have any further questions regarding this matter.

Yours truly,

Timothy B. Henseler
Acting Director

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

April 30, 2013

The Honorable Tom Carper
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Seante Office Building
Washington, D.C. 20510

Dear Chairman Carper:

Enclosed please find a redacted copy of the Securities and Exchange Commission's ("Commission") Office of Inspector General ("OIG") report entitled "Follow-up Investigation Relating to Forensic Analysis of Division of Trading and Markets Laptops" ("OIG-557"). The report is the second by the OIG concerning mismanagement of a computer security lab that supports an inspection program run by the Commission's Division of Trading and Markets.

The report contains redactions that were principally made to protect personally identifiable or other information, the release of which could result in an invasion of personal privacy. Where the names of Commission employees have been removed, the names have been replaced where they appear in the report with information sufficient to identify their roles as Commission staff.

Consistent with the ordinary practice of Congressional committees, we request that this letter and all information from the report that has not previously been released be kept nonpublic.

Please call me at (b)(6) if you have any further questions regarding this matter.

Yours truly,

Timothy B. Henseler
Acting Director

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

April 30, 2013

The Honorable Mike Crapo
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Ranking Member Crapo:

Enclosed please find a redacted copy of the Securities and Exchange Commission's ("Commission") Office of Inspector General ("OIG") report entitled "Follow-up Investigation Relating to Forensic Analysis of Division of Trading and Markets Laptops" ("OIG-557"). The report is the second by the OIG concerning mismanagement of a computer security lab that supports an inspection program run by the Commission's Division of Trading and Markets.

The report contains redactions that were principally made to protect personally identifiable or other information, the release of which could result in an invasion of personal privacy. Where the names of Commission employees have been removed, the names have been replaced where they appear in the report with information sufficient to identify their roles as Commission staff.

Consistent with the ordinary practice of Congressional committees, we request that this letter and all information from the report that has not previously been released be kept nonpublic.

Please call me at (b)(6) if you have any further questions regarding this matter.

Yours truly,

Timothy B. Henseler
Acting Director

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

April 30, 2013

The Honorable Elijah Cummings
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
2471 Rayburn House Office Building
Washington, D.C. 20515

Dear Ranking Member Cummings:

Enclosed please find a redacted copy of the Securities and Exchange Commission's ("Commission") Office of Inspector General ("OIG") report entitled "Follow-up Investigation Relating to Forensic Analysis of Division of Trading and Markets Laptops" ("OIG-557"). The report is the second by the OIG concerning mismanagement of a computer security lab that supports an inspection program run by the Commission's Division of Trading and Markets.

The report contains redactions that were principally made to protect personally identifiable or other information, the release of which could result in an invasion of personal privacy. Where the names of Commission employees have been removed, the names have been replaced where they appear in the report with information sufficient to identify their roles as Commission staff.

Consistent with the ordinary practice of Congressional committees, we request that this letter and all information from the report that has not previously been released be kept nonpublic.

Please call me at (b)(6) if you have any further questions regarding this matter.

Yours truly,

Timothy B. Henseler
Acting Director

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

April 30, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Issa:

Enclosed please find a redacted copy of the Securities and Exchange Commission's ("Commission") Office of Inspector General ("OIG") report entitled "Follow-up Investigation Relating to Forensic Analysis of Division of Trading and Markets Laptops" ("OIG-557"). The report is the second by the OIG concerning mismanagement of a computer security lab that supports an inspection program run by the Commission's Division of Trading and Markets.

The report contains redactions that were principally made to protect personally identifiable or other information, the release of which could result in an invasion of personal privacy. Where the names of Commission employees have been removed, the names have been replaced where they appear in the report with information sufficient to identify their roles as Commission staff.

Consistent with the ordinary practice of Congressional committees, we request that this letter and all information from the report that has not previously been released be kept nonpublic.

Please call me at (b)(6) [redacted] if you have any further questions regarding this matter.

Yours truly,

Timothy B. Henseler
Acting Director

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

April 30, 2013

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
B301C Rayburn House Office Building
Washington, D.C. 20515

Dear Ranking Member Waters:

Enclosed please find a redacted copy of the Securities and Exchange Commission's ("Commission") Office of Inspector General ("OIG") report entitled "Follow-up Investigation Relating to Forensic Analysis of Division of Trading and Markets Laptops" ("OIG-557"). The report is the second by the OIG concerning mismanagement of a computer security lab that supports an inspection program run by the Commission's Division of Trading and Markets.

The report contains redactions that were principally made to protect personally identifiable or other information, the release of which could result in an invasion of personal privacy. Where the names of Commission employees have been removed, the names have been replaced where they appear in the report with information sufficient to identify their roles as Commission staff.

Consistent with the ordinary practice of Congressional committees, we request that this letter and all information from the report that has not previously been released be kept nonpublic.

Please call me at (b)(6) if you have any further questions regarding this matter.

Yours truly,

Timothy B. Henseler
Acting Director

<u>Questions for The Honorable Mary Schapiro, Chairman, U.S. Securities and Exchange Commission, from Ranking Member Shelby:</u>

1. **During the hearing, you offered to provide the Committee with details on the content of and extent to which SEC staff consulted or spoke with the Federal Reserve Board staff regarding the 2010 reforms.**
    a. **Please also include details on the content of and extent to which SEC staff consulted or spoke with Treasury staff or Financial Stability Oversight Council (FSOC) staff regarding the 2010 reforms. Please be sure to include details on the extent to which Federal Reserve Board staff, Treasury staff, or FSOC staff reviewed or drafted any of the documents associated with the 2010 reforms.**

<u>Response</u>: Commission staff discussed the 2010 reforms with Federal Reserve Board staff and Treasury staff, including, among other aspects of the reforms, the Commission's request for comment in 2009 on whether to require money market funds to use floating net asset values per share ("NAVs"). Discussions with Federal Reserve Board staff and Treasury staff about the 2010 reforms were not extensive, however, and the staffs of those agencies did not review or draft any of the documents associated with the 2010 reforms. FSOC had not been formed at the time.

b. **Please also provide details on the content of and extent to which SEC staff consulted or spoke with the Federal Reserve Board staff, Treasury staff, or FSOC staff regarding the current money market reforms (floating NAV, capital buffer, and redemption restrictions) under consideration. Again, please be sure to include details on the extent to which Federal Reserve Board staff, Treasury staff, or FSOC staff reviewed or drafted any of the documents associated with the current money market reforms under consideration.**

<u>Response</u>: While Commission staff did recommend that the Commission propose certain additional reforms, as I explained in a publicly-released statement on August 22, a majority of the Commission does not support the staff's recommendations at this time. In formulating its recommendations to the Commission, Commission staff consulted extensively with Federal Reserve Board staff and Treasury staff about the feasibility and utility of a number of reform options for money market funds, including, but not limited to, a liquidity bank, requiring money market funds to use floating NAVs, capital buffers, and redemption restrictions and liquidity fees. These consultations took place as part of an informal working group of staff from the Commission, Treasury and the Federal Reserve Board staff that formed after the May 2011 Roundtable on Money Market Funds and Systemic Risk. In addition to this consultation, I understand that Commission staff provided Treasury staff two short excerpts of a draft release in order to obtain Treasury's technical guidance on tax issues and shared portions of draft rule text with staff from the Federal Reserve for technical assistance. Commission staff consultations with FSOC staff included consultations in connection with money market fund reform presentations to FSOC in October 2011 and February 2012; in connection with FSOC's 2011 and 2012 annual reports, which made money market fund reform recommendations; and in connection with a draft letter from FSOC recommending that the SEC pursue structural reform of money market funds.

2. **In response to a question during the hearing you said "We have learned that, while most funds significantly reduced their exposures to European banks in light of all the problems in the Eurozone, some funds did not..."**
    a. **Please provide details on the funds that have not significantly reduced their exposures to European banks. How many funds still have significant direct exposure to European banks? How large are these funds? How large are the exposures? To which European banks are the funds most exposed?**

Response: As of June 30, 2012, 50 prime money market funds (out of 247 total prime funds) had exposures to Eurozone banks in excess of 20% of their assets, and 46 of those funds had increased their exposure since December 2011. (In calculating this exposure, Commission staff included securities directly issued by banks as well as bank-related securities, such as asset-backed commercial paper issued by bank-sponsored programs.) These 50 funds, in aggregate, have assets under management of $36.2 billion, representing 22.1% of total prime fund assets. The funds range in size from $10 million to $47 billion. The top 5 Eurozone banks to which these funds are exposed are Deutsche Bank, Rabobank, ING, BNP Paribas, and Société Générale.

b. **Do the funds that have not significantly reduced their exposures to European banks present a threat to the financial stability of the United States? What metrics did you use to make this determination? What analysis did you conduct?**

Response: Any portfolio holding that can cause a money market fund to re-price its shares below $1.00 per share, or to "break the buck," can pose systemic risks, if that repricing below $1.00 leads to a broader run on money market funds. The Commission, however, has not determined that any particular money market fund presents a threat to the financial stability of the United States, as that is not within the Commission's regulatory ambit. Although systemic risk implicates the Commission's mission in that systemic risk can harm investors and damage our markets, the Commission, as opposed to FSOC, is not charged with designating firms that present a threat to the financial stability of the United States.

3. **In a recent speech on "Shadow Banking After the Financial Crisis," Federal Reserve Governor Tarullo referred to what he termed "second-best alternatives" to additional SEC actions to address money market fund vulnerabilities. Most notably, he mentioned a recent proposal pnt forth by Deputy Governor Tucker of the Bank of England in which regulators would set limits on banks' reliance on money markets for funding.**

a. **If the Fed set new limits that would cause banks to significantly reduce the funding that they received from money market funds, how would that impact the U.S. money markets?**

Response: This action by the Federal Reserve would have a significant impact on money market funds, and especially prime money market funds which, as of June 30, 2012, had invested $199.2 billion (or 12.1% of prime fund assets) in securities related to U.S. banks. When evaluating the effect of such an action by the Federal Reserve, the staff assumed that other U.S. bank regulators would be likely to take similar steps, resulting in a broad-based decline in U.S. banks seeking funding from money market funds, and that this decline would affect securities directly issued by banks as well as bank-related securities, such as asset-backed commercial paper issued by bank-sponsored programs; the staff made similar assumptions when evaluating the effects of the same action by regulators of banks outside of the United States, as discussed below. Assuming shareholder demand for prime money market funds does not change, prime money market funds thus would need to find alternative investments for up to $199.2 billion of their assets, based on this data. This would increase the demand for assets other than U.S.-bank securities, which might reduce the yield on those securities and allow those issuers to fund themselves more cheaply. How this would alter the risks in prime funds' portfolios would depend on the securities in which the funds would invest in lieu of the bank-related securities.

b. **If bank supervisors in other jurisdictions set new limits that would cause banks to significantly reduce the funding that they received from money market funds, how would that impact the U.S. money markets?**

Response: This action by bank supervisors in other jurisdictions would have a similar effect but on a larger scale. Prime money market funds, as of June 30, 2012, had invested $929.6 billion (or 56.7% of prime fund assets) in securities related to banks outside of the United States. The impact, of course, would be most significant if both U.S. and non-U.S. bank regulators were to set limits that would cause banks worldwide to significantly reduce the funding they receive from money market funds.

4. **Executive Order 13579 "Regulation and Independent Regulatory Agencies" requires the SEC to conduct retrospective analyses of existing rules. Has the SEC done a comprehensive retrospective analysis of the 2010 money market fund reforms, consistent with the requirements of the Executive Order?**
    a. **If so, please provide copies of that analysis.**

Response: The Commission has not done a retrospective analysis of rule 2a-7 pursuant to Executive Order 135579. However, the Commission and staff currently have formal and informal processes for identifying existing rules for review and for conducting those reviews to assess the rules' continued utility and effectiveness in light of continuing evolution of the securities markets and changes in the securities laws and regulatory priorities. For example, the

Commission publishes twice yearly an agenda of anticipated rulemaking actions pursuant to section 602(a) of the Regulatory Flexibility Act. Although that Act requires these semi-annual agendas to include only rules that are likely to have a significant economic impact on a substantial number of small entities, the Commission's general practice has been to include in its agendas all anticipated rulemakings for which it has provided or will provide notice and comment, regardless of their impact on small entities. The complete agenda is available at www.reginfo.gov, and information on regulatory matters in the agenda is available at www.regulations.gov. The agenda includes both potential changes to existing rules, including rescission, and new rulemaking actions. The Commission publishes a notice of each agenda on its website and invites questions and public comment on the agenda and on the individual agenda entries.

b. If not, please provide copies of any analysis of the 2010 money market fund reforms that the SEC has done.

Response: As I explained in a statement I issued on August 22, 2012, a majority of the Commission does not support the staff proposal to reform the structure of money market funds that was referenced in the June 21, 2012 hearing. Throughout the Commission's process of evaluating the need for further reforms of our regulation of money market funds and the substance of potential reforms, Commission staff has evaluated – and indeed, continues to evaluate – the effectiveness of the Commission's 2010 regulatory reforms for money market funds. When and if the Commission pursues further rulemaking in this area, I expect that it would publish this analysis as part of any proposal for public comment if not before. Summarized below is the general nature of the staff's analysis to date.

***

The money market fund reform amendments the Commission adopted in 2010 primarily served three objectives. First, the amendments required money market funds for the first time to hold specified minimum levels of liquid assets to better position the funds to meet redemptions. Second, the amendments improved disclosure of some of the risks in money market funds by requiring the funds to file portfolio information with the Commission (made available to the public), and to post much of that information on their websites. Third, the amendments reduced the interest rate and spread risk that money market funds can assume.

I believe that these reforms have successfully achieved the objectives of the 2010 rulemaking:

- **Increased Ability to Meet Redemptions**. The 2010 amendments generally require money market funds to invest at least 10 percent of their portfolios in assets that can be expected to pay in one day (daily liquid assets) and 30 percent of their portfolios in assets that can be expected to pay in one week (weekly liquid assets). Most funds today exceed these minimum requirements. Money market funds' ability to meet heavy redemptions in the summer of 2011 when the markets were under stress suggests that this increased liquidity was helpful.

Prime money market funds managed over $1.8 trillion at the end of May 2011, and exposures to Eurozone issuers accounted for approximately 30% of prime money market mutual fund assets as of this date, based on Form N-MFP data. Because of redemptions, the assets in prime money market mutual fund assets fell by 5.1% in June 2011, and by another 4.1% in July 2011. Some funds had redemptions of almost 20% of their assets in each of June, July, and August 2011. Money market funds were able to satisfy these redemptions without significant deterioration in their market-based NAVs, in part because of the new liquidity requirements in place for money market funds.

It is important to note, however, that unlike the situation in the Reserve Primary Fund and other funds in 2008, there were no appreciable losses that accompanied the heightened redemptions of 2011. Thus, the liquidity requirements worked as expected to address a *liquidity* situation; they could not, however, have addressed a simultaneous loss in value of a significant money market fund holding. Nor could liquidity requirements limit the growing impact of a loss in value when combined with redemptions. For example, a relatively modest 25 basis point reduction in a fund's shadow NAV would cause a fund to break the buck if it were combined with 50% redemptions.

- **Improved Disclosure**. By requiring improved transparency of money market fund exposures, the 2010 amendments allow investors and other market participants to gather additional information about money market funds. Third party data vendors also have begun collecting, analyzing, and distributing these data.

- **Reducing Portfolio Risks**. The 2010 amendments reduced money market funds' exposures to interest rate and spread risks by reducing the maximum weighted average portfolio maturity ("WAM") permitted by the rule from 90 days to 60 days, and by introducing a new 120-day limit on the weighted average life ("WAL") of a money market fund's portfolio. Portfolios with shorter WAMs and WALs generally are less sensitive to changes in interest rates and spreads.

  Specifically, the staff conducted an analysis on the probability of a fund breaking the buck under two different WAM scenarios: 90 day WAM (prior to the 2010 reforms) and 60 day WAM. This reduction in WAM decreased the fund's maximum sensitivity to interest rate changes.[1] To quantify how these changes affect the probability of breaking the buck, Table 1 presents a Monte Carlo simulation on the probability of breaking a buck for portfolios comprised of three different types of assets and two different WAMs.[2]

---

[1] The daily value of money market fund assets are affected by daily interest rate changes in the money market. The analysis models this relation using the three asset categories: Treasury assets are affected by daily changes in 6-month Treasury bills; one-day assets are affected by daily changes in 1-day financial commercial paper; and non-DLA assets are affected by daily changes in 30-day financial commercial paper. The below analysis uses Bloomberg and Federal Reserve data between 1998 and 2012. The mean daily yield change for the 60-day Treasury bills, 1-day financial commercial paper, and the 30-day financial commercial paper are -0.214, -0.422, and -0.170 (all in basis points). The corresponding standard deviations of daily yield changes are 4.2, 10.3, and 7.8 (all in basis points).

[2] The resiliency of the NAV buffer to interest rate changes is explored using Monte Carlo simulations. The simulation starts on day 0 with a fund that has pre-specified portfolio weights, a price of exactly one dollar, and a 90

The portfolio assets are weighted by the proportion in Treasury assets (cash, Treasury securities, and repos backed by Treasury securities), one-day assets (non-Treasury assets that mature within one business day) and other non-daily liquid assets, also known as non-DLAs (all other assets). The results show that the level of the portfolio WAM has a substantial effect on the probability of breaking the buck. Consider, for example, row 8, which is the portfolio with 50% Treasury assets and 50% non-DLA assets. Its probability of breaking the buck falls from 0.170% to 0.003% when the WAM decreases from 90 to 60 days. For the portfolio that is 20% low risk and 80% high risk (row 10), the probability falls from 1.478% to 0.135%. Note, however, that the analysis does not consider the effect of redemptions on the probability of breaking the buck, only the effect of interest rate changes. Net outflows increase the probability of the fund to breaking the breaking the buck. In addition, this is the probability of breaking the buck over only a one year time period. A longer time period will also increase the probability of breaking the buck.

Table 1: Weighted Average Maturity

	Portfolio Weights			Probability (NAV < .995)	
	Treasury	One Day	Non-Daily Liquid Assets	WAM = 90	WAM = 60
1	100%	0%	0%	0.045%	0.000%
2	80%	0%	20%	0.018%	0.000%
3	80%	10%	10%	0.020%	0.000%
4	80%	20%	0%	0.042%	0.000%
5	0%	100%	0%	0.000%	0.000%
6	50%	50%	0%	0.042%	0.000%
7	0%	50%	50%	3.987%	0.512%
8	50%	0%	50%	0.170%	0.003%
9	10%	0%	90%	2.598%	0.265%
10	20%	0%	80%	1.478%	0.135%
11	0%	20%	80%	4.045%	0.523%

or 60-day WAM. Each day thereafter, market interest rates change for each of the portfolio's three types of assets. Based on the size of the net change in rates and the fund's portfolio composition, the fund's value will either increase or decrease. The fund is followed for one year or until the fund breaks a buck, whichever comes first. The simulation is repeated for each possible portfolio in 2% increments. For example, the first simulation has the (Treasury, one-day, non-daily liquid assets) portfolio weights set at (100%, 0%, 0%); the second simulation has portfolio weights set at (98%, 2%, 0%); the tenth simulation has portfolio weights set at (82%, 18%, 0%); and the final simulation has portfolio weights set at (0%, 10%, 90%). This is repeated 60,000 times. For each set of portfolio weights, the estimated probability of breaking the buck is the quotient of the total number of times the fund breaks the buck and 60,000. For example, if the fund breaks the buck 300 times for a particular set of portfolio weights, the probability of breaking the buck for that portfolio is estimated to be 0.5% = 300 / 60,000.

Because the 2010 amendments increase the stability of money market mutual funds, they make the funds more resilient to some types of financial shocks, and thus provided some reduction in systemic risk from money market mutual funds.

However, as I have stated, the 2010 amendments did not solve two fundamental problems that make money market funds susceptible to runs: namely, the fact that (1) money market funds have a limited capacity to absorb losses in portfolio securities they hold and (2) investors have a substantial incentive to redeem at the first sign of trouble, shifting losses to remaining investors and destabilizing the fund.

Rule 2a-7 permits money market mutual funds to trade at $1.00 per share, even when the fund's shares are worth up to 50 basis points less than $1.00. Although money market funds invest in securities that can lose value as a result of credit events (*e.g.*, defaults) or increases in interest rates, the funds are unable themselves to absorb any significant losses without pricing their shares below $1.00, or "breaking the buck." The amortized cost accounting and penny rounding permitted by rule 2a-7 help mask these risks, and have created investor expectations that shareholders will not experience losses. When losses have occurred, fund sponsors have stepped in to support their funds, even though the capital used to support the funds was contingent on the ability and willingness of the sponsor to provide it (sometimes overnight). In 2007, for example, one fund sponsor contributed over $5.5 billion to stop a run on its fund. The following year, in 2008, the sponsor of The Reserve Primary Fund did not have sufficient resources to support its fund, in the face of a credit loss on one portfolio holding, leading to a run on the fund that spread generally to prime money market mutual funds. The potential catastrophic consequences of that run were avoided only by government programs established by the Department of Treasury and the Federal Reserve Board of Governors.

Beyond this, money market mutual funds are susceptible to runs because they reward shareholders who redeem early at the first sign of a problem. Early redeemers receive $1.00 per share – even when the fund has experienced a loss and its shares are worth less than that – thereby leaving behind growing losses in the fund for slower redeemers. This encourages investors to run at the first sign of trouble and can unfairly shift losses to slower-to-redeem (typically retail) investors. The 2010 reforms did not address – nor did they intend to address – either of these fundamental problems.

While the staff's current analysis indicates that since the 2010 reforms money market funds are better able to handle heightened shareholder redemptions when a fund has not suffered any loss in value and that the reduced WAM decreased the funds' maximum sensitivity to interest rate changes, the 2010 reforms did not address potential credit losses. It also is not clear that they have improved money market funds' ability to handle heightened shareholder redemptions when a fund has suffered a credit loss. This is important because, as noted above, I believe that money market fund shareholders still, even given the 2010 reforms, have a strong incentive to redeem from a money market fund that they fear may suffer a loss. Thus, money market funds remain susceptible to such losses and that these shareholder incentives remain.

5. **A number of money market participants have argued that the current reform proposals under consideration would cause many money market funds to cease to exist.**
    a. **When the SEC considers the costs of the current reforms under consideration, how many money market fund closures does the SEC consider to be justified by the expected benefits? Is a closure of 25% of money market funds justified? Is a closure of 50% of money market funds justified? The entire industry?**

<u>Response</u>: When considering rulemaking in general, we consider a rule's expected benefits, costs, and other economic effects, including effects on efficiency, competition, and capital formation. The staff's recommendation for further money market fund reforms was accompanied by a draft proposing release that discussed all of these issues extensively, including the potential that further money market fund reforms could reduce the number of money market funds or the amount of money market fund assets under management, potential consequences that were impossible to quantify. If the Commission were to act on that recommendation in the future, we would evaluate whether the recommendation's expected benefits and other positive effects would justify the associated costs and negative effects. The goal of the reform effort was to reduce money market funds' susceptibility to runs, making them a stronger and more resilient investment product and source of financing in the short term credit markets. There was no size target for either closures or formations of money market funds – or a target for the overall size of the money market fund industry.

b. **What analysis has the SEC conducted on the potential effects from the current reform proposals on competition within the money market fund industry?**

<u>Response</u>: The draft proposing release accompanying the staff's recommendation for further money market fund reforms discussed the potential effects on competition associated with the recommended reforms. The Commission would seek comment on these potential effects if it were to again consider the recommendation in the future.

c. **What analysis has the SEC conducted on the potential effects from the current reform proposals on the ability of commercial paper issuers, particularly small issuers, to access the money markets?**

<u>Response</u>: The draft proposing release accompanying the staff's recommendation for further money market fund reforms discussed the potential effects on capital formation associated with the recommended reforms. The Commission would seek comment on these potential effects if it were to again consider the recommendation in the future.

The minutes from the FSOC meeting held February 1, 2012 show that staff from the SEC, Federal Reserve, and Treasury participated in a joint

presentation on money market reforms. Please provide copies of the presentation materials, including any slide decks, notes, or talking points used for the presentation.

Response: The slide deck and staff script from the February 1, 2012 presentation are enclosed.

Questions for The Honorable Mary Schapiro, Chairman, U.S. Securities and Exchange Commission, from Senator Menendez:

When will the SEC issue rules to implement the CEO to median worker pay provision of the Wall Street reform law? It has been nearly two years since Congress required that law to be implemented, and late last year Meredith Cross testified when I questioned her that the agency would try to implement the law in 2011, a deadline which passed six months ago.

Response: The staff is actively working on developing recommendations for the Commission concerning the implementation of Section 953(b), which requires the Commission to implement rules requiring disclosure of the CEO's annual total compensation, the median of the annual total compensation paid to all employees other than the CEO, and the ratio between the two numbers. In doing so, the staff has met with numerous interested parties and has received a great deal of information. As evidenced in the public comment file on the Commission's website (which includes more than 20,000 comment letters relating to Section 953(b)), a variety of stakeholders have submitted comment letters related to this provision of the Dodd-Frank Act. The comments reflect a wide range of views concerning the implementation of the provision and the potential costs and benefits associated with the requirements. The staff is carefully reviewing and analyzing all comments as it develops recommendations for the Commission. In this regard, the Commission's staff is considering how this requirement could be implemented in a cost-effective manner that is consistent with the statutory language.

The Commission and the staff are continuing to work diligently to implement the provisions of the Dodd-Frank Act, including Section 953(b), while balancing that work with our other responsibilities. As you know, under the Dodd-Frank Act alone, the SEC was tasked with writing a large number of new rules and issuing over twenty studies and reports. In this regard, the Commission has prioritized its work to implement provisions with statutory deadlines over provisions without statutory deadlines, such as 953(b).

Questions for The Honorable Mary Schapiro, Chairman, U.S. Securities and Exchange Commission, from Senator Kirk:

1. **Have there been any instances over the past decade when cnstomers of money market funds were not ahle to access funds? If so, what was the duration of each of these instances? Have there been any instances since the 2010 reforms?**

Response: Based on a staff review, there have been three instances in the last decade when money market fund investors were not able to access their investments, all of which took place during the financial crisis: (1) when certain of the Reserve's money market funds suspended redemptions and liquidated, (2) when Putnam Investment's Prime Money Market Fund was closed in September 2008 following substantial redemptions from the fund while the fund's management and board arranged a merger of the fund into Federated's Prime Obligations Fund, and (3) when the Utendahl Institutional Money Market Fund suspended redemptions for a short period of time in September 2008. The details of each are provided below.

The Reserve Primary Fund—which "hroke the buck" in 2008—is still in liquidation. The following Reserve money market funds were liquidated on the corresponding dates:

- the Primary II Fund (11/25/08),
- Reserve Liquid Performance Money-Market Fund (12/29/08),
- U.S. Government Fund (1/16/09),
- U.S. Government II Fund (11/25/08),
- U.S. Treasury Fund (5/28/09),
- Treasury and Repo Fund (3/30/09),
- Louisiana Municipal Money-Market Fund (11/26/08),
- Massachusetts Municipal Money-Market Fund (11/26/08),
- Arizona Municipal Money-Market Fund (2/13/09),
- Minnesota Municipal Money-Market Fund (12/12/08),
- Interstate Tax-Exempt Fund (3/13/09),
- California Municipal Money-Market Fund (2/13/09),
- Connecticut Municipal Money-Market Fund (12/10/08),
- Florida Municipal Money-Market Fund (2/6/09),
- Michigan Municipal Money-Market Fund (12/12/08),
- New Jersey Municipal Money-Market Fund (2/4/09),
- Ohio Municipal Money-Market Fund (12/10/08),
- Pennsylvania Municipal Money-Market Fund (12/1/08),
- Virginia Municipal Money-Market Fund (12/12/08), and
- the New York Municipal Money-Market Fund (2/13/09).

Putnam announced on September 18, 2008, that it had closed the Prime Money Market Fund, effective as of 5:00 p.m. on September 17, and was merged into the Federated fund on Septemher 24, 2008.

The Utendahl Institutional Money Market Fund announced that it was suspending redemptions on September 18, 2008, and resumed normal operations on September 26, 2008.

2. **Moody's recently downgraded more than a dozen global hanks, inclnding five of the six biggest U.S. banks by assets. How do you explain the lack of disruption to money market funds following this downgrade in the context of your position regarding the need for greater stabilization?**

Response: These downgrades, announced in June of this year, had been anticipated for some time after Moody's announced the potential for the downgrades in February. As a result, money market funds and others had ample time to prepare for them. This allowed money market funds, for example, to significantly increase the portion of certain of the downgraded banks' securities that were collateralized by Treasury securities and government securities, and to shorten the duration of the banks' securities. Further, although rule 2a-7 imposes stringent limits on securities that do not have a so-called "first tier" rating, these limits generally did not apply because the banks' securities were not also downgraded by Standard & Poor's or Fitch Ratings.

3. **According to a June 25 article in the Wall Street Journal, the recent Moody's downgrade of more than a dozen global banks, which included the preferred securities guaranteed by those banks, could have significant effects on money market mutual funds. Would the reforms under consideration shield money market funds from possible negative consequences related to downgrades?**

Response: The reforms the staff recommended to the Commission would have addressed the consequences of rating downgrades in two ways. First, the proposals were designed to increase a money market fund's ability to absorb decreases in value of a portfolio security—whether caused by a downgrade or otherwise—without suffering a run. The proposals would have done this either by requiring money market funds to maintain a tailored amount of capital (an NAV buffer) and impose some restrictions on redemptions, or by requiring the funds to move to a "floating" NAV and reflect the actual value of the fund's portfolio on a daily basis, removing the expectation that a money market fund's true value remains stable. Second, the proposals would have removed references to credit ratings in Investment Company Act rule 2a-7, the rule that regulates money market funds. Because money market funds would no longer be required to take specified actions in the event of a downgrade, the effects of downgrades, and any related disruption, could be diminished.

4. **According to your testimony, an SEC staff review reveals that sponsors have voluntarily provided support to money market funds on more than 300 occasions since they were first offered in the 1970s. Does this review analyze the depth of support offered by sponsors? Will evidence of past support influence the level of operational or capital buffers required by regulators?**

Response: The compilation of past instances of sponsor support included the size of the distressed portfolio security where that information was available. When formulating its recommendation concerning the size of the NAV buffer, the staff analyzed data, to the extent available, concerning daily fluctuations in funds' market-based NAVs caused by interest rate changes and similar daily factors. It was not envisioned that the level of a fund's capital buffer would be influenced by past instances of sponsor support.

5. **If money market funds outside of the United States have different requirements, is the SEC creating an opportunity for regulatory arbitrage? Might this create the opportunity for systemically significant regional/country concentrations? Are regulators outside of the U.S considering similar money market fund requirements? If not, what is the rationale for imposing a different set of rules for U.S-based funds?**

Response: If money market funds outside of the United States were subject to less stringent regulatory requirements, this could create the opportunity for regulatory arbitrage. The potential for any regulatory arbitrage may he limited, however, by the legal implications of offering securities in the United States, which could discourage non-U.S. money market funds from seeking or accepting large numbers of U.S. investors. Moreover, the majority of money market fund assets outside of the United States are in Europe, and both the European Commission and the International Organization of Securities Commissions ("IOSCO") are exploring further money market fund reforms, including the kinds of reforms the staff recommended to the Commission. The European Commission, for example, sought comment in July 2012 on capital buffers and redemptions restrictions or liquidity fees, among other options. On October 9, 2012, IOSCO issued policy recommendations for money market fund reform, responding to the Financial Stability Board's request that IOSCO review potential regulatory reforms for money market funds and develop policy recommendations. IOSCO's recommendations include, among other things, that money market funds use floating NAVs or, where that's not workable, develop additional safeguards to make the funds more resilient, such as NAV buffers or redemption fees or holdbacks.

Questions for The Honorable Mary Schapiro, Chairman, U.S. Securities and Exchange Commission, from Senator Toomey:

1. **Regarding the 300 times that sponsors supported a money market mutual fund that you mentioned in your testimony, please provide the following iuformation:**
    a. **The securities subject to such sponsor support and their CUSIP numbers;**
    b. **The money market funds involved in the sponsor support;**
    c. **The date of the sponsor support and reason that such support was required;**
    d. **The form of support provided (*e.g.,* purchase of securities, third-party credit enhancement, affiliated support agreement);**

e. **Whether the sponsor support resulted in a payment to the money market funds, and the date and amount of such payment;**
f. **The ultimate resolution of the sponsor-supported securities.**

Response: The compilation of past instances of sponsor support provided contains the above information, to the extent it was reasonably available to Commission staff.

2. **I have been informed that three money market funds continued to hold the security that had sponsor support in 2011. Please describe what occurred regarding those three funds.**

Response: The staff reports that, as of November 30, 2011, the first date for which we have data following the downgrade of the security at issue (Eksportfinans) in early November, 21 funds held the security. By April 2012, the last month during which any funds held the security before it matured on April 24, 2 funds still owned the security. Some additional funds also held the security between November 2011 and April 2012. I understand, based on the staff's contemporaneous discussions with funds that held the security, that the funds' boards of directors evaluated the security and determined that it was appropriate to continue to hold it.

3. **You have acknowledged that the Federal government no longer has authority to guarantee or insure money market funds, yet you claim there is a risk that taxpayers would be "on the hook" if there was another run. Would legislation prohibiting government support to a money market fund that suffered a loss due to a default or other credit event address your concerns?**

Response: This may address my concerns to some extent, in that this kind of legislation could reduce some of the moral hazard that may affect money market fund managers or investors who today may believe that a fund will be saved by taxpayers in a crisis. However, legislation of this nature would not alter the structural features of money market funds that I believe make them susceptible to runs, including primarily the funds' inability to absorb sizable losses in the value of portfolio securities and the incentive to redeem created by the funds' practice of redeeming shares at $1.00 even when the shares' market-based value is less than that. Thus, if an event were to occur that caused a broad-based run on money market funds, we could face a situation like that experienced in 2008 when the short-term credit markets freeze and companies are unable to fund their operations.

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

THE CHAIRMAN

August 13, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Johnson:

In accordance with Section 991 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Commission is required to notify Congress within 10 calendar days of the obligation of funds from the Commission's Reserve Fund.

This letter is to notify you that, on August 8, 2012, the Commission obligated $4,980,000.00 from the Reserve Fund for a portion of the SEC.gov modernization project. Specifically, the funds have been obligated for professional services to implement major architectural improvements and redesigns of the SEC.gov website, the Commission's investor.gov website, the public EDGAR repository, and the Commission intranet. The SEC.gov website is one of the Federal Government's most viewed web-sites and serves as a vital gateway for both businesses and individuals to access massive amounts of critical, financial filer information (13.5 terabytes) maintained by the Commission. The SEC.gov modernization project will make the sites more informative, easier and more intuitive to navigate and update, more flexible to support evolving content and functionalities, and more secure. It will also reduce system operating and maintenance costs.

We will continue to notify you as further obligations occur. Please do not hesitate to contact me at (202) 551-2100, or have your staff contact Timothy B. Henseler, Acting Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) [redacted]vith any additional questions or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

July 9, 2012

The Honorable Hank Johnson
U.S. House of Representatives
1427 Longworth House Office Building
Washington, DC 20515

Dear Representative Johnson:

Thank you for your June 22, 2012 letter regarding the status of the Commission's rulemaking to implement Sections 1502 and 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I am responding on behalf of Chairman Schapiro who is recused from the Section 1504 rulemaking. As you know, Sections 1502 and 1504 require the Commission to issue rules regarding the disclosure of information about conflict minerals from the Democratic Republic of the Congo ("DRC") and adjoining countries, and payments made by resource extraction issuers to governments, respectively. In your letter, you note that final rules regarding these provisions have not yet been adopted and you express concern that conflict minerals and non-transparent payments for resource extraction weigh on developing nations' growth and are a risk to investors and the public. You request that the Commission schedule a vote on final rules to implement Sections 1502 and 1504 by July 1, 2012, or provide an explanation for the delay and a definitive date for a scheduled vote on the provisions.

As you know, the Commission proposed new rules in December 2010 that would implement the requirements of Sections 1502 and 1504 and, at the request of a wide range of commentators, subsequently extended the original comment period on these proposals. The Commission requested comment on a variety of significant aspects of the proposed rules. Additionally, the Commission hosted a roundtable discussion regarding the Congo conflict minerals provision, which provided a forum for various stakeholders to exchange views and provide input on issues related to that rulemaking. In connection with the roundtable, the Commission reopened the comment period.

The Commission has received a great deal of public comment on both rule proposals and is committed to adopting final rules consistent with the statutory provisions. The staff continues to work actively on developing final recommendations for the Commission.

We understand your concern with regard to the timing of the Commission's issuance of final rules and the importance of adopting them as soon as possible. On July 2, 2012, the Commission issued a notice indicating that it will consider whether to adopt rules regarding disclosure and reporting obligations to implement the requirements of Sections 1502 and 1504 at an open meeting on August 22, 2012.

Please do not hesitate to have a member of your staff contact me at (b)(6) if you have any additional concerns or comments.

Sincerely,

Timothy B. Henseler
Acting Director

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

OFFICE OF
LEGISLATIVE AND
INTERGOVERNMENTAL
AFFAIRS

November 15, 2011

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, D.C. 20510-6075

The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, D.C. 20510-6075

Dear Chairman Johnson and Ranking Member Shelby:

Pursuant to Section 21F(g)(5) of the Securities Exchange Act of 1934 and Section 924(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, enclosed please find the fiscal year 2012 annual report of the staff of the Securities and Exchange Commission concerning the Commission's whistleblower award program and Investor Protection Fund.

Please have your staff call me at (b)(6) if you have any questions or comments.

Sincerely,

Timothy B. Henseler
Acting Director

Enclosure

THE CHAIRMAN

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

March 19, 2013

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Johnson:

I want to thank you for sponsoring amendments during the Senate's consideration of the Continuing Resolution that would have increased SEC funding for FY 2013. I know you share my strong belief that the SEC is in need of additional resources to permit it to fulfill its broad and critical mandates.

As you are aware, the funding increase contemplated by your amendment would be deficit-neutral, as the SEC's appropriation is offset by transaction fees. Although lowering the SEC's appropriated level will not reduce the deficit at all, it will result in lower fees paid by the securities industry.

Without the additional funding that your amendment would provide, the SEC's appropriated level for FY 2013 will be approximately $1.255 billion, $66 million less than the FY 2012 appropriated level. Funding the SEC at this level will have an impact, including:

- limiting our ability to conduct sufficiently robust enforcement and regulatory oversight;
- preventing us from hiring additional experts we need for bolstering enforcement, enhancing economic analysis, and building out the agency's oversight programs with respect to derivatives, clearing agencies, and credit rating agencies, among others; and
- preventing us from meeting important technology needs in areas such as information security and data analysis.

Again, I very much appreciate your efforts and support for the SEC and its mission.

Sincerely,

Elisse B. Walter

Elisse B. Walter

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

THE CHAIRMAN

November 15, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Johnson:

I am pleased to inform you that the FY 2012 Agency Financial Report (AFR) for the U.S. Securities and Exchange Commission is now available at http://www.sec.gov/about/secafr2012.shtml.

The FY 2012 AFR contains a variety of useful information about the SEC and its activities in FY 2012, including:

- Management's Discussion and Analysis, including a discussion of the year in review;

- The financial statements and notes for the SEC as a whole, as well as for the Investor Protection Fund as required under Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and

- The results of the Government Accountability Office's (GAO) audit of the SEC's financial statements and internal controls over financial reporting.

The report also discusses GAO's finding that the SEC maintained, in all material respects, effective internal controls over financial reporting in FY 2012, free of material weaknesses, for the second year in a row Although the SEC will continue its focus on strengthening financial controls in the coming months, I am pleased that our efforts over the past year have yielded significant results.

Thank you for your continued support for the SEC and its mission. If you have any questions, please feel free to contact me at (202) 551-2100, or have your staff contact Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs, at (b)(6) [redacted]

Sincerely,

Mary L Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

January 23, 2012

The Honorable Timothy Johnson
U.S. House of Representatives
1207 Longworth House Office Building
Washington, DC 20515-1315

Dear Representative Johnson:

Thank you for your December 20, 2011 letter expressing concerns regarding the release of assets in commodity customer accounts at MF Global, Inc. ("MFGI"). I share your concern that customers have not received all of their assets from MFGI and understand the financial hardship this has caused.

With respect to the accounts of securities customers, in December, the bankruptcy court approved the sale and transfer of substantially all of MFGI's active securities accounts to Perrin, Holden & Davenport Capital Corp. The trustee estimates that this initial transfer will restore 100% of the net equity for more than 85% of these securities customers and that the remaining securities customers will receive at least 60% of their net equity plus an amount up to the limit of the protection afforded by SIPC (up to $500,000). The transfer is ongoing, and the trustee is providing public updates on the status of customer account transfers on its website at http://dm.epiq11.com/MFG/Project/default.aspx.

Although the SEC does not have jurisdiction over segregated accounts of futures customers, I can assure you that the SEC and its staff will work with the trustee, our fellow financial regulators and other authorities as appropriate to facilitate the proper return of all customer assets, and to investigate and pursue any violations of securities laws.

I hope that this information is useful to you and your constituents. Thank you again for your letter. Please call me at (202) 551-2100, or have your staff call Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) if you have any further questions or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

OFFICE OF
EQUAL EMPLOYMENT
OPPORTUNITY

March 29, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Johnson:

Section 203 of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (P. L. 107-174; 116 Stat. 566) requires an annual report regarding the Commission's activities to ensure accountability for antidiscrimination and whistleblower laws related to employment. Enclosed please find a copy of the report prepared by the staff of the Commission. This report complies with the Office of Personnel Management regulations published at 5 CFR Part 724.

Sincerely,

Alta G. Rodriguez (C.A.)
EEO Director

Enclosure

Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002

Annual Report

Fiscal Year 2011

United States

Securities and Exchange Commission

March 2012

U. S. SEC FY 2011 No FEAR Act Annual Report

This is the United States Securities and Exchange Commission's (SEC) annual No FEAR Act Report prepared pursuant to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, "No FEAR Act." See 107 P.L. 174, Title II section 203 (a). The Office of Personnel Management (OPM) regulations governing reporting obligations are published at 5 C.F.R. Subpart C § 724.302 (2009). The required information is provided below with citations and full text of the applicable sections of the OPM regulations.

§ 724.302 (a)(1) The number of cases in Federal Court pending or resolved in each fiscal year and arising under each of the respective provisions of the Federal Antidiscrimination Laws applicable to them as defined in § 724.102 of subpart A of this part in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved.

Cases in Federal Court Alleging Employment Discrimination

Status	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11
Opened	2	1	2	1	2	1
Pending	4	4	4	5	3	4
Closed	1	1	1	1	2	2

Cases in Federal Court Alleging Whistleblower Retaliation

There were no cases alleging Whistleblower Retaliation pending at any time during the period FY 2006-2011.

§ 724.302 (a)(2)(i) In the aggregate, status or disposition (including settlement).

Cases in Federal Court Alleging Employment Discrimination

Disposition	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11
Dismissed	0	0	0	0	0	0
Summary Judgment Granted to SEC	1	1	0	0	1	2
Withdrawn	0	0	0	0	0	0
Settled	0	0	1	0	1	0
Merits Decision	0	0	0	0	0	0

Cases in Federal Court Alleging Whistleblower Retaliation

There were no cases alleging Whistleblower Retaliation pending at any time during the period FY 2006-2011.

§ 724.302 (a)(2)(ii) Amount of money required to be reimbursed to the Judgment Fund by the agency for payments as defined in § 724.102 of subpart A of this part.

No reimbursements were required during the period FY 2006-2011.

§ 724.302 (a)(2)(iii) Amount of reimbursement to the Fund for attorney's fees where such fees have been separately designated.

No reimbursements were required during the period FY 2006-2011.

§ 724.302 (a)(3) In connection with cases identified in paragraph (a)(1) of this section, the total number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part and the specific nature, e.g., reprimand, etc., of the disciplinary actions taken, separated by the provision(s) of law involved.

No employees were disciplined during the time period FY 2006-2011in connection with cases identified in paragraph (a)(1) of this section.

§ 724.302 (a)(4) The final year-end data about discrimination complaints for each fiscal year that was posted in accordance with Equal Employment Opportunity Regulations at subpart G of title 29 of the Code of Federal Regulations (implementing section 301(c)(1)(B) of the No FEAR Act).

See Appendix for the final year-end data as posted on the SEC's public website: www.sec.gov.

§ 724.302 (a)(5) Whether or not in connection with cases in Federal court, the number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part in accordance with any agency policy described in paragraph (a)(6) of this section. The specific nature, e.g., reprimand, etc., of the disciplinary actions taken must be identified.

No employees were disciplined during the period FY 2006-2011 in accordance with the agency policy described in paragraph (a)(6) of this section. (See below.)

§ 724.302 (a)(6) A detailed description of the agency's policy for taking disciplinary action against Federal employees for conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice revealed in connection with agency investigations of alleged violations of these laws.

The SEC implemented its relevant disciplinary policy covering supervisory misconduct in 1990. The policy is part of the SEC's Personnel Operating Policies and Procedures Manual (POPPS) issued as SECR 6-10 in 1990 and distributed throughout the SEC. The "Table of Penalties Involving Employee Misconduct" states:

> 1. The decision logic tables on the following pages may be used as a guide for selecting appropriate penalties in disciplinary actions involving employee misconduct. The tables show the inter-relationships of disciplinary causes and actions, but it does not establish procedural causes and actions, nor does it automatically set penalties. Depending on the circumstances, a penalty may be more or less severe than those listed in the tables. This guide does not presume to cover all possible offenses, however, it does attempt to include most issues that are likely to apply in the Commission. Other factors to be weighed are: character, gravity, recency and consequences of the offense; combination and character of other offenses; mitigating circumstances; length of service; quality of work; personal reputation; past contributions and record of cooperation.

POPPS SECR 6-10, Attachment 3, Nov 12, 1990, at 25 (footnote omitted).

The "decision logic tables" in Attachment 3 at 34-35 list "Causes of Action" with "Typical Penalties."

Offenses Related to Supervisory/Managerial Observance of Employee Rights

21. Sexual Harassment.

22. Discrimination based on race, color, sex, religion, national origin, age, marital status, political affiliation or [disability]

	Typical Penalty
First offense:	Reprimand to removal
Second:	5 day suspension to removal
Third:	30 day suspension to removal

23. Reprisal against employee for providing information to the Office of Inspector General (or equivalent), the Office of Special Counsel, to an EEO Investigator, or for testifying in an official proceeding.
24. Reprisal against an employee for exercising a right provided under 5 U.S.C. § 7101, *et seq.* (governing Federal labor-management relations).
25. Violation of an employee's constitutional right to freedom of speech, association, and religion.
26. Violation of prohibited personnel practices (see attachment 12[1]).

	Typical Penalty
First offense:	Reprimand to removal
Second:	Removal
Third:	Removal

---

§ 724.302 (a)(7) An analysis of the information provided in paragraphs (a)(1) through (6) of this section in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with 29 C.F.R. part 1614 subpart F ... [s]uch analysis must include: -- (i) An examination of trends; (ii) Causal analysis; (iii) Practical knowledge gained through experience; and (iv) Any actions planned or taken to improve complaint or civil rights programs of the agency with the goal of eliminating discrimination and retaliation in the workplace.

Examination of Trends

The SEC is a small agency. The average number of employees during the period covered in this report (FY 2006-2011) was below 4,000. Between FY 2006-2011, the average number of administrative EEO complaints filed annually was 12.8. In FY 2011, there were a total of 10 complaints filed, 9 complainants and 1 repeat filer. Unsuccessful applicants for employment filed 4 of the 10 complaints.

Causal Analysis

With an annual average of only 12.8 complaints filed, the volume of data does not support meaningful conclusions about cause and effect based on the type of employment issues raised or the bases of discrimination alleged. Further, in the cases closed during this 6-year period, there were no findings of discrimination.

In the reported time frame (FY 2006-2011), the five discrimination bases alleged most frequently were: reprisal (39), race (36), age (35), sex (25), and disability (24). In FY 2011, the five discrimination bases alleged most frequently were: age and reprisal (8 each), race and sex (6 each) and disability (5).

In the reported time frame (FY 2006-2011), the six employment issues raised most frequently were: terms and conditions of employment (26), non-sexual harassment (18), assignment of duties and reasonable accommodation (13), appointment/hire (12) and promotion/non-selection (11). In FY 2011, the issues raised in more than one complaint were: terms and conditions of employment and appointment/hire (4 each), non-sexual harassment and "other" (2 each).

Processing Data Overview

The EEOC regulations governing data posted pursuant to Title III of the No FEAR Act limit the case disposition data to the following types: dismissals by the agency, withdrawals by complainants and findings of discrimination. *See* www.sec.gov/eeoinfo/nofeardata.htm.

Agencies are not permitted to post information about decisions on the merits unless discrimination was found and similarly may not post information about the number of EEO administrative complaints

---

[1] Attachment 12 at POPPS 53-54 summarizes the prohibited personnel practices set forth in the Civil Service Reform Act of 1978, with reference to 5 U.S.C. § 2302.

settled by mutual agreement. *See* 29 C.F.R. § 1614.701, *et seq.* (2009). All complaints closed during the reported time frame were withdrawn, settled or ended in a finding of no discrimination.

During the FY 2006-2011 period, the SEC dismissed 23 complaints and complainants withdrew 5. As noted above, there were no findings of discrimination during the period.

In FY 2011, the average number of days to complete an investigation was 175, down from 199 days in FY 2010. One investigation was completed beyond the applicable regulatory time limits.

At the close of FY 2011, 6 complaints were pending in the administrative process. One complaint was pending in investigation, 2 were pending hearing or disposition at the EEOC and 3 were on appeal at the EEOC's Office of Federal Operations.

Analysis of Data, Practical Knowledge Gained Through Experience, and Actions Planned to Improve Complaint and Civil Rights Programs

As noted above, the number of administrative EEO complaints alleging violations of EEO laws or related Executive Orders is too small to draw conclusions from trend analysis.

§ 724.302 (a)(8) For each fiscal year, any adjustments needed or made to the budget of the agency to comply with its Judgment Fund reimbursement obligation(s) incurred under § 724.103 of this part.

No adjustments were made to the SEC's budget to comply with the requirements under §201.

§ 724.302 (a)(9) The agency's written plan developed under § 724.203(a) of subpart B of this part to train all of its employees (including supervisors and managers) about the rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws applicable to them.

SEC's No FEAR Act Training Plan

The Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act"), Pub. L. 107-174, mandates that all federal employees be fully informed of their right to be free from employment discrimination and retaliation. In furtherance of that goal, Title II of the No FEAR Act obligates each federal agency to develop training plans to ensure that all employees are aware of their rights and remedies and how to exercise them. OPM regulations 5 C.F.R. § 724.302(a)(9) include a reporting element requiring agencies to include No FEAR Act training plans in the annual No FEAR Act Report. This training plan represents best practices and the current technological capabilities of the SEC. The specific provisions of this plan may be updated and improved. Any substantial changes will be included in the SEC's Annual No FEAR Act Report for FY 2013. Plans to enter into contracts to provide training are contingent upon funding.

Training for New Employees – FY 2011

In FY 2011, new SEC employees who attended orientation classes at the SEC's Headquarters were instructed to read the No FEAR Act notice and verify compliance in writing within the first 30 days after entry on duty. New employees in other locations received the same instructions via emails from administrative officials designated by the SEC's Office of Human Resources as contacts responsible for processing new employees. In addition, the SEC intranet homepage has a prominent link to the page called "Welcome New Employees." That page has a highlighted link at the top directing employees to a page with instructions for meeting mandatory requirements to read the No FEAR Act notice:

> **"No FEAR" Act Notice – Required Reading for New Employees**
>
> Within the first month of starting employment at the SEC, all employees are required to read the "No FEAR Act Notice." It explains important rights and remedies under the federal Equal Employment Opportunity (EEO) Laws and the Whistleblower Protection Act. They must confirm that they have complied with this requirement by following the instructions below the link to the No FEAR Act Notice.

The SEC planned to subscribe to a commercial online No FEAR Act Training course in FY 2010, but did not have sufficient funding. Therefore, the SEC continued to require new employees to read the No FEAR Act notice to be informed of their rights and remedies under EEO and Whistleblower Protection laws. When the Bi-Annual Employee Training described below becomes available, new employees will be directed to take that training.

Bi-Annual Employee Training - FY 2012

The SEC acquired a centralized Learning Management System (LMS) to deliver training, track employee compliance and issue automated notices to employees required to take mandatory training including, but not limited to, No FEAR Act Training. The LMS will be linked to the Federal Personnel and Payroll System. The SEC anticipates having it available for all employees to use during the third quarter of FY 2012. An online No FEAR Act Training module was acquired in FY 2011, to be modified for SEC use by the SEC's Offices of Equal Employment Opportunity and the Inspector General.

Beginning in April 2012, the SEC plans to train all employees on board as of March 31, 2012.

Training in Subsequent Years

The LMS will generate notices of required No FEAR Act Training to employees to ensure that every employee will take No FEAR Act Training within two years of the date the employee last took No FEAR Act Training.

This training plan represents best practices, available funding levels and technological capabilities of the SEC as of March 2012. The specific provisions of this plan may be updated as circumstances change. Any substantial changes will be included in the SEC's Annual No FEAR Act Report for FY 2013.

---

§ 724.302 (9)(c) Agencies must provide copies of each report to the following:

(1) Speaker of the U.S. House of Representatives;

(2) President *Pro Tempore* of the U.S. Senate;

(3) Committee on Governmental Affairs, U.S. Senate;

(4) Committee on Government Reform, U.S. House of Representatives;

(5) Each Committee of Congress with jurisdiction relating to the agency;

(6) Chair, Equal Employment Opportunity Commission;

(7) Attorney General; and

(8) Director, U.S. Office of Personnel Management.

The officials receiving the FY 2011 report are identified on the following page.

§ 724.302 (9)(c)(1) Speaker of the U.S. House of Representatives:

The Honorable John Boehner, Speaker of the House
U.S. House of Representatives,
H-232, Capitol Building
Washington, DC 20515

§ 724.302 (9)(c)(2) President *Pro Tempore* of the U.S. Senate:

The Honorable Sen. Daniel K. Inouye,
President *Pro Tempore*
United States Senate
S-126, Capitol Building
Washington, DC 20510

§ 724.302 (9)(c)(3) Committee on Homeland Security and Governmental Affairs, U.S. Senate:

The Honorable Joseph Lieberman, Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Susan Collins, Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
344 Dirksen Senate Office Building
Washington, DC 20510

§ 724.302 (9)(c)(4) Committee on Government Reform, U.S. House of Representatives:

The Honorable Darrell Issa, Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah Cummings, Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
2471 Rayburn House Office Building
Washington, DC 20515

§ 724.302 (9)(c)(5) Committees of Congress with jurisdiction relating to the SEC:

The Honorable Spencer Bachus, Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Barney Frank, Ranking Member
Committee on Financial Services
U.S. House of Representatives
B301C Rayburn House Office Building
Washington, DC 20515

The Honorable Tim Johnson, Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirsken Senate Office Building
Washington, DC 20510

The Honorable Richard Shelby, Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirsken Senate Office Building
Washington, DC 20510

§ 724.302 (9)(c)(6) Chair, Equal Employment Opportunity Commission:

Jacqueline A. Berrien, Chair
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

§ 724.302 (9)(c)(7) United States Attorney General:

Eric H. Holder, Jr., Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

§ 724.302 (9)(c)(c)(8) Director, U.S. Office of Personnel Management:

The Honorable John Berry, Director
U.S. Office of Personnel Management
1900 E Street NW
Washington, DC 20415

Equal Employment Opportunity Data Posted
Pursuant to the No Fear Act:

U.S. Securities and Exchange Commission

For 4th Quarter 2011 for period ending September 30, 2011

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					10/1/10-09/30/11
	2006	2007	2008	2009	2010	
Number of Complaints Filed	13	11	11	15	17	10
Number of Complainants	13	9	10	14	16	9
Repeat Filers	1	2	1	1	1	1

Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					10/1/10-09/30/11
Note: Complaints can be filed alleging multiple bases.The sum of the bases may not equal total complaints filed.	2006	2007	2008	2009	2010	
Race	5	10	4	3	8	6
Color	0	2	1	1	3	1
Religion	0	0	2	1	3	2
Reprisal	6	4	5	9	7	8
Sex	3	4	3	5	4	6
National Origin	20	0	2	0	2	1
Equal Pay Act	1	1	0	2	0	0

Age	6	6	2	6	7	8
Disability	3	1	3	7	5	5
Non-EEO	0	1	1	1	2	0

Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					
Note: Complaints can be filed alleging multiple bases.The sum of the bases may not equal total complaints filed.	**2006**	**2007**	**2008**	**2009**	**2010**	**10/1/10-09/30/11**
Appointment/Hire	0	1	0	4	3	4
Assignment of Duties	1	5	0	3	3	1
Awards	1	0	0	1	2	0
Conversion to Full-time	0	0	0	0	0	0
Disciplinary Action						
Demotion	0	0	0	0	0	0
Reprimand	0	0	0	2	0	1
Suspension	1	0	0	1	1	0
Removal	1	0	1	0	0	0
Other	0	1	1	0	1	0
Duty Hours	0	0	0	0	0	1
Evaluation Appraisal	1	1	0	2	4	0
Examination/Test	0	0	0	0	0	0
Harassment						
Non-Sexual	3	3	2	5	3	2
Sexual	0	0	0	1	1	0
Medical Examination	0	0	0	0	0	0

Pay (Including Overtime)	3	2	0	2	0	0
Promotion/Non-Selection	3	2	2	1	2	1
Reassignment						
Denied	0	0	0	0	0	0
Directed	0	0	0	0	0	1
Reasonable Accommodation	1	0	3	5	3	1
Reinstatement	0	0	0	0	0	0
Retirement	0	0	0	1	0	1
Termination	0	0	2	1	2	1
Terms/Conditions of Employment	1	6	2	9	4	4
Time and Attendance	0	3	1	4	0	1
Training	0	0	0	1	1	0
Other	0	2	1	2	1	2

Processing Time	**Comparative Data**					
	Previous Fiscal Year Data					**10/1/10-09/30/11**
	2006	**2007**	**2008**	**2009**	**2010**	
Complaints pending during fiscal year						
Average number of days in investigation	176	124	191	194	199.1	175.00
Average number of days in final action	71	83	80	58	132.44	205.57
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	178	197	191	194	210.44	0
Average number of days in final action	13	30	59	58	15.00	0
Complaint pending during fiscal year where hearing was not requested						

Average number of days in investigation	176	243	170	187	193.15	175.00
Average number of days in final action	86	99	42	NA	166.00	205.57

Complaints Dismissed by Agency	Comparative Data					
	Previous Fiscal Year Data					10/1/10-09/30/11
	2006	2007	2008	2009	2010	
Total Complaints Dismissed by Agency	4	4	1	3	7	4
Average days pending prior to dismissal	77	95	21	120	158	41
Complaints Withdrawn by Complainants						
Total Complaints Withdrawn by Complainants	1	1	0	0	1	2

Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data										10/1/10-09/30/11	
	2006		2007		2008		2009		2010			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		0		0	
Without Hearing	0	0	0	0	0	0	0	0	0	0	0	0
With Hearing	0	0	0	0	0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data					
	Previous Fiscal Year Data					10/1/10-09/30/11
	2006	2007	2008	2009	2010	
Total complaints from previous Fiscal Years	17	15	5	12	14	13
Total Complainants	NA	14	5	11	13	11
Number complaints pending						

Investigation	3	0	8	10	0	1
ROI issued, pending Complainant's action	0	0	0	0	0	0
Hearing	9	1	3	4	4	2
Final Agency Action	3	0	1	0	1	0
Appeal with EEOC Office of Federal Operations	3	4	2	0	2	3

Complaint Investigations	**Comparative Data**					
	Previous Fiscal Year Data					**10/1/10-09/30/11**
	2006	**2007**	**2008**	**2009**	**2010**	
Pending Complaints Where Investigations Exceed Required Time Frames	1	1	1	1	0	2

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

THE CHAIRMAN

May 16, 2012

The Honorable Hank Johnson
U.S. House of Representatives
1427 Longworth House Office Building
Washington, DC 20515

Dear Representative Johnson:

Thank you for your letter dated April 30, 2012 regarding the proposed implementation of Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly referred to as the "Volcker Rule." As you know, the Commission issued the proposal jointly with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to implement Section 619. Since your letter provides views on the proposed regulations, I have asked Commission staff to include your letter in the public comment file for this proposal.

At this time, the Commission and its staff are closely considering the large number of detailed comment letters that we have received on the proposal as we continue to coordinate with our fellow regulators to further refine the proposed rule. We are committed to working expeditiously through the remainder of the rulemaking process in light of the desire for greater market certainty, the complexity of the issues presented by Section 619, and the need to fully consider all of the comment letters the Commission has received on the proposed rule.

Thank you again for your letter. Please call me at (202) 551-2100, or have your staff call Eric Spitler, Director of the Office of Legislative and Intergovernmental Affairs, at (b)(6) (b)(6) if you have any questions or comments.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

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

THE CHAIRMAN

December 13, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Johnson:

The SEC's Office of the Inspector General (OIG) has completed its Semiannual Report for the period April 1, 2012 through September 30, 2012. On behalf of the Commission, I am providing the appropriate congressional committees with that report as required by law, along with a separate Management Report containing comments on certain portions of the report and certain required information.

The Commission appreciates the OIG for its independent review of our programs. We are committed to working cooperatively with that office and providing it with the appropriate and necessary administrative and management support. The OIG has provided recommendations to help the agency improve its performance, and we are implementing those recommendations as resources permit.

Sincerely,

Mary L. Schapiro

Mary L. Schapiro
Chairman

Enclosures

Non Responsive

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

OFFICE OF
FINANCIAL MANAGEMENT

October 31, 2012

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Subject: Securities and Exchange Commission Investor Protection Fund-- Financial Statement Audit

Dear Chairman Johnson:

This letter is to describe how the Securities and Exchange Commission plans to implement certain reporting requirements related to the Investor Protection Fund (IPF).

By way of background, Section 21F(g)(5)(G) of the U.S. Securities Exchange Act of 1934 (Exchange Act), as amended by Section 922 of the Dodd-Frank Act, requires that an Annual Report of the Whistleblower Program, to include audited financial statements of the Investor Protection Fund (IPF), be provided to Congress "not later than October 30 of each fiscal year." The IPF is a fund within the SEC reporting entity, and its financial transactions are included in SEC's overall financial reporting.

However, this October 30 reporting deadline for the IPF is approximately two weeks before the November 15 deadline for releasing audited financial statements for the entire SEC reporting entity, in accordance with the Accountability for Tax Dollars Act and OMB Circular A-136, *Financial Reporting Requirements*. Given the IPF is an integral part of the Commission's consolidated financial statements, we have asked GAO, the SEC's external auditors, to also audit the IPF's standalone financial statements. GAO has agreed to conduct the audit of the IPF. However, GAO has expressed a concern to management regarding the differences in report dates. Specifically, GAO is concerned about issuing an opinion on a fund within the financial statements prior to completing the actual consolidated financial statement audit.

Additionally, aligning the deadlines and the audit processes for these two requirements would result in time savings to the SEC and its external auditors (GAO), and more importantly, cost savings to the public. Therefore, our intention is to provide the audited IPF statements at the same time, and in the same report (the agency's annual Agency Financial Report) as those for the Commission, on or around November 15 of each year. Additionally, as the audited financial statements of the IPF are a required part of the Annual Report of the Whistleblower Program, the Annual Report will be submitted to Congress no later than November 15 of each year.

If you or your staff has any questions concerning this letter, please contact me at (b)(6) (b)(6) or Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs at (b)(6)

Sincerely,

Kenneth A. Johnson
Chief Financial Officer

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

OFFICE OF
FINANCIAL MANAGEMENT

October 31, 2012

The Honorable Spencer Bachus
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Subject: Securities and Exchange Commission Investor Protection Fund-- Financial Statement Audit

Dear Chairman Bachus:

This letter is to describe how the Securities and Exchange Commission plans to implement certain reporting requirements related to the Investor Protection Fund (IPF).

By way of background, Section 21F(g)(5)(G) of the U.S. Securities Exchange Act of 1934 (Exchange Act), as amended by Section 922 of the Dodd-Frank Act, requires that an Annual Report of the Whistleblower Program, to include audited financial statements of the Investor Protection Fund (IPF), be provided to Congress "not later than October 30 of each fiscal year." The IPF is a fund within the SEC reporting entity, and its financial transactions are included in SEC's overall financial reporting.

However, this October 30 reporting deadline for the IPF is approximately two weeks before the November 15 deadline for releasing audited financial statements for the entire SEC reporting entity, in accordance with the Accountability for Tax Dollars Act and OMB Circular A-136, *Financial Reporting Requirements*. Given the IPF is an integral part of the Commission's consolidated financial statements, we have asked GAO, the SEC's external auditors, to also audit the IPF's standalone financial statements. GAO has agreed to conduct the audit of the IPF. However, GAO has expressed a concern to management regarding the differences in report dates. Specifically, GAO is concerned about issuing an opinion on a fund within the financial statements prior to completing the actual consolidated financial statement audit.

Additionally, aligning the deadlines and the audit processes for these two requirements would result in time savings to the SEC and its external auditors (GAO), and more importantly, cost savings to the public. Therefore, our intention is to provide the audited IPF statements at the same time, and in the same report (the agency's annual Agency Financial Report) as those for the Commission, on or around November 15 of each year. Additionally, as the audited financial statements of the IPF are a required part of the Annual Report of the Whistleblower Program, the Annual Report will be submitted to Congress no later than November 15 of each year.

If you or your staff has any questions concerning this letter, please contact me at (b)(6) (b)(6) or Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs at (b)(6)

Sincerely,

Kenneth A. Johnson
Chief Financial Officer

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

OFFICE OF
FINANCIAL MANAGEMENT

October 31, 2012

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
U.S. House of Representatives
B301C Rayburn House Office Building
Washington, DC 20515

Subject: Securities and Exchange Commission Investor Protection Fund-- Financial Statement Audit

Dear Representative Frank:

This letter is to describe how the Securities and Exchange Commission plans to implement certain reporting requirements related to the Investor Protection Fund (IPF).

By way of background, Section 21F(g)(5)(G) of the U.S. Securities Exchange Act of 1934 (Exchange Act), as amended by Section 922 of the Dodd-Frank Act, requires that an Annual Report of the Whistleblower Program, to include audited financial statements of the Investor Protection Fund (IPF), be provided to Congress "not later than October 30 of each fiscal year." The IPF is a fund within the SEC reporting entity, and its financial transactions are included in SEC's overall financial reporting.

However, this October 30 reporting deadline for the IPF is approximately two weeks before the November 15 deadline for releasing audited financial statements for the entire SEC reporting entity, in accordance with the Accountability for Tax Dollars Act and OMB Circular A-136, *Financial Reporting Requirements*. Given the IPF is an integral part of the Commission's consolidated financial statements, we have asked GAO, the SEC's external auditors, to also audit the IPF's standalone financial statements. GAO has agreed to conduct the audit of the IPF. However, GAO has expressed a concern to management regarding the differences in report dates. Specifically, GAO is concerned about issuing an opinion on a fund within the financial statements prior to completing the actual consolidated financial statement audit.

Additionally, aligning the deadlines and the audit processes for these two requirements would result in time savings to the SEC and its external auditors (GAO), and more importantly, cost savings to the public. Therefore, our intention is to provide the audited IPF statements at the same time, and in the same report (the agency's annual Agency Financial Report) as those for the Commission, on or around November 15 of each year. Additionally, as the audited financial statements of the IPF are a required part of the Annual Report of the Whistleblower Program, the Annual Report will be submitted to Congress no later than November 15 of each year.

If you or your staff has any questions concerning this letter, please contact me at (b)(6) (b)(6) or Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs at (b)(6)

Sincerely,

Kenneth A. Johnson
Chief Financial Officer

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

OFFICE OF
FINANCIAL MANAGEMENT

October 31, 2012

The Honorable Richard Shelby
Ranking Member
Committee on Banking, Housing and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Subject: Securities and Exchange Commission Investor Protection Fund-- Financial Statement Audit

Dear Senator Shelby:

This letter is to describe how the Securities and Exchange Commission plans to implement certain reporting requirements related to the Investor Protection Fund (IPF).

By way of background, Section 21F(g)(5)(G) of the U.S. Securities Exchange Act of 1934 (Exchange Act), as amended by Section 922 of the Dodd-Frank Act, requires that an Annual Report of the Whistleblower Program, to include audited financial statements of the Investor Protection Fund (IPF), be provided to Congress "not later than October 30 of each fiscal year." The IPF is a fund within the SEC reporting entity, and its financial transactions are included in SEC's overall financial reporting.

However, this October 30 reporting deadline for the IPF is approximately two weeks before the November 15 deadline for releasing audited financial statements for the entire SEC reporting entity, in accordance with the Accountability for Tax Dollars Act and OMB Circular A-136, *Financial Reporting Requirements*. Given the IPF is an integral part of the Commission's consolidated financial statements, we have asked GAO, the SEC's external auditors, to also audit the IPF's standalone financial statements. GAO has agreed to conduct the audit of the IPF. However, GAO has expressed a concern to management regarding the differences in report dates. Specifically, GAO is concerned about issuing an opinion on a fund within the financial statements prior to completing the actual consolidated financial statement audit.

Additionally, aligning the deadlines and the audit processes for these two requirements would result in time savings to the SEC and its external auditors (GAO), and more importantly, cost savings to the public. Therefore, our intention is to provide the audited IPF statements at the same time, and in the same report (the agency's annual Agency Financial Report) as those for the Commission, on or around November 15 of each year. Additionally, as the audited financial statements of the IPF are a required part of the Annual Report of the Whistleblower Program, the Annual Report will be submitted to Congress no later than November 15 of each year.

If you or your staff has any questions concerning this letter, please contact me at (b)(6) (b)(6) or Timothy Henseler, Acting Director of Legislative and Intergovernmental Affairs at (b)(6)

Sincerely,

Kenneth A. Johnson
Chief Financial Officer