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## United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP  
WASHINGTON, DC 20510-6350

March 8, 2006

The Honorable Christopher Cox  
Chairman  
U.S. Securities and Exchange Commission  
Room 6100  
Washington, DC 20549

Dear Chairman Cox:

I want to commend you on your role in implementing out the Sarbanes - Oxley Act of 2002 (the Act). As Chair of the Senate Committee on Small Business and Entrepreneurship, I know that our nation's small public firms need substantial help complying with this Act. These businesses have anxiously awaited the final findings and recommendations of the Securities and Exchange Commission's Advisory Committee on Smaller Public Companies. Now, as the Advisory Committee's final report is published for public comment, the SEC must work to address the impact of the Act on so many small businesses.

Existing regulations treat both small and large companies, regardless of their vast differences in size and power, as if they pose the same level of risk to the market, and should bear the same regulatory burden. Small stocks make up approximately 6 percent of the U.S. stock market's total capitalization - while large companies make up roughly 80 percent. In 2002, because of accounting scandals, Enron stock lost \$80 billion and WorldCom stock lost \$180 billion in market value, for a combined total loss of \$260 billion. Over 100 smaller companies - with market capitalizations below \$787 million - or 600 micro companies with market capitalizations below \$128 million, would have to fail to equal Enron's market loss alone. Additionally, over 2,000 micro-cap companies would have to fail to equal Enron's and WorldCom's combined negative effect on the market. Small companies' limited size and market influence validates regulations that reduce company regulatory requirements with reduced risk.

Currently, many small public companies are caught in an expensive and paralyzing state of regulatory limbo. Business owners are unsure if they will be required to meet the Act's existing regulations, set to take effect next year, or comply with new requirements specifically designed for small businesses. The Advisory Committee's deliberations over Section 404 of the Act, and the SEC's postponement of these internal controls requirements for small non-accelerated filers until 2007, have left many small businesses uncertain about next year's compliance requirements. Prior to the postponement of Section 404's requirements, some small firms invested considerable amounts of time and money into internal controls compliance. Now, to meet the pending 2007 Section 404 deadline, they must resume that process and actively certify and document their internal controls throughout 2006. Because of this approaching deadline, small businesses urgently need the SEC to clarify the small business regulatory requirements for 2007.

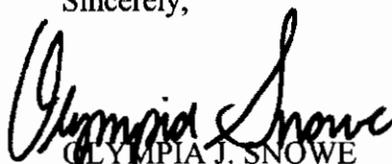
While I believe in “right sizing” regulations, I caution the SEC against creating a new, unduly complex regulatory system that attempts to solve the problems of the current, overly ambiguous and difficult regulatory system. Instead, I urge the SEC to adopt clear, unambiguous, and practical small business rules. We must also ask whether any new regulations will discourage small companies from becoming publicly traded and participating in capital markets. The SEC should be careful not to make the regulations for public companies so complicated and cumbersome that they become an insurmountable barrier to market entry for small companies. Additionally, the SEC must work with the Public Company Accounting Oversight Board to provide small firms with specific guidance on how to fulfill any new regulatory requirements.

The SEC must estimate costs accurately, as required by the Small Business Regulatory Flexibility Act, to keep new regulations from destroying small business competitiveness and profitability. Before Section 404 was postponed, one small Maine public company stated that it spent roughly \$630,000 on internal controls compliance costs. The SEC’s original cost estimate for Section 404, compliance, however, predicted that companies would only spend 398 hours and approximately \$35,286 each to comply with the Act, stating “We believe, however, that the annual average burden for small issuers is much lower.” A significant difference between the SEC’s estimate and the costs actually incurred by small companies would call into question the SEC’s ability to accurately evaluate and estimate the cost of new regulations on small businesses. Grossly under-estimating the regulatory impact of new rules will smother and suffocate small ground-breaking businesses, drive them out of the market, and greatly impede U.S. competitiveness and innovation.

At my request, the Government Accountability Office is finishing the first comprehensive government study into the effects of the Act on small businesses. I hope the SEC will carefully consider the GAO’s findings, along with the Advisory Committee’s report and the comments of concerned businesses, organizations, and investors, in your final small business regulatory ruling. I will be carefully watching the process to ensure that the scaling and complexity of any new regulations are not overly cumbersome for small public companies, but instead support their ascension and growth.

I appreciate your willingness and openness to exploring these complex and difficult issues. I look forward to working with you to ensure the ongoing strength and vigor of small publicly traded firms.

Sincerely,

  
OLYMPIA J. SNOWE  
Chair