



Consumer Federation of America

April 13, 2011

The Honorable Mary Schapiro
Chairman
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Dear Chairman Schapiro:

I read with concern the statement in your April 6 letter to Rep. Darrell Issa that the Commission is in the process of forming a new Advisory Committee on Small and Emerging Companies. In the current highly charged political environment, where even the most basic protections are routinely attacked as excessively burdensome, an advisory committee that is given the task of suggesting “ways to reduce the regulatory burdens on small business capital formation” has the potential to do extensive and lasting damage to important investor protections. Only the most carefully assembled committee can avoid becoming a spawning ground for destructive proposals designed to elevate business interests at the expense of investor interests.

Under the circumstances, I frankly question the wisdom of appointing such a committee at all without first establishing through independent, objective analysis and empirical evidence that there is a problem that needs to be solved, specifically that excessive burdens on or barriers to capital formation are depriving companies of affordable access to capital on appropriate terms. Given the public commitment that you have now made to create this committee, however, its formation seems inevitable. To minimize the damage that such a committee could do, it is absolutely essential that it include robust representation for investors with expertise on these issues and fair representation for the full range of viewpoints on capital formation questions.

Recent experience has demonstrated the investor harm that can result when these principles of fair representation are ignored:

- The Advisory Committee for Smaller Public Companies stands as a prime example of the investor harm that can occur when special interests are given a Commission-sanctioned soapbox from which to launch their attack on investor protections. The Committee’s recommendation to exempt all but the largest public companies from SOX 404 was rejected by its lone investor representative and was repudiated by the Republican-led SEC of the time. Nonetheless, that recommendation has had a lasting policy impact and is often cited by those who are intent on rolling back the post-Enron financial reporting

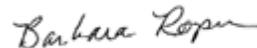
reforms. *This experience highlights the need to ensure that investors receive more than token representation on committees such as this that directly affect their interests.*

- As the experience with the Advisory Committee on Improvements to Financial Reporting makes clear, numerical representation is not enough. The problem in that case was not primarily lack of investor representation but rather the selection of panel members with an eye toward excluding dissenting viewpoints. The result was a set of recommendations that gave scant attention to views of the most prominent investor advocates working on these issues at the time. *To avoid a repeat, the Commission must ensure that advisory committees appointed to address complex issues include fair representation for the broad range of views held by stakeholders with an interest in the issues under debate.*

Only by providing this broad-based representation can the Commission ensure that committee recommendations represent a reasonable compromise among interested parties rather than the special interest pleadings of a select group.

I greatly appreciate the efforts you have made to give investors a more prominent role in Commission policy-making, including through the creation of the Investor Advisory Committee. It would send a troubling message, however, if this new advisory group were created while reconstitution of the Investor Advisory Committee and appointment of an Investor Advocate continue to be delayed due to funding concerns. Moreover, as positive as these developments have been, the goal of increasing agency responsiveness to investor concerns will never be fully realized until the Commission abandons its practice of denying investors fair representation on the advisory committees appointed to address issues that affect their interests. You have an opportunity to change that practice with the appointment of this new advisory committee. I urge you to seize that opportunity.

Respectfully submitted,



Barbara Roper
Director of Investor Protection

cc: Commissioner Luis Aguilar
Commissioner Kathleen Casey
Commissioner Troy Paredes
Commissioner Elisse Walter