



Securities Industry Association

120 Broadway - 35 Fl. • New York, NY 10271-0080 • (212) 608-1500, Fax (212) 968-0703
1425 K Street, NW • Washington, DC 20005-3500 • (202) 216-2000, Fax (202) 216-2119
www.sia.com, info@sia.com

January 20, 2004

The Honorable William H. Donaldson
Chairman
U.S. Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549

**Re: Proposed Establishment Of SEC Office Of
Global Security Risk**

Dear Chairman Donaldson:

The purpose of this letter is to express our concern over the proposal to establish an SEC Office of Global Security Risk in the report accompanying the House appropriations bill (108-221 to H.R. 2799). This office would oversee a new requirement on companies to disclose any activities they may have in countries subject to U.S. sanctions. While the SIA is firmly committed to maintaining and strengthening the security of the United States, we have consistently opposed the use of the U.S. capital markets to achieve foreign policy goals, however worthy. We are very concerned that the creation of this Office could be a first step towards politicizing the U.S. capital markets and would set a bad policy precedent. The establishment of such an office could also create troubling issues relating to the SEC's traditional and time-honored standards of disclosure and "materiality".

We fear that if an office dealing specifically with sanctions issues were created within the SEC, then it may not be long before other political or social issues are judged sufficiently important to justify the creation of separate offices within the Commission dedicated to their protection. While each such issue may be perfectly deserving, one of the great achievements of the SEC has been its ability to stand, as much as possible, independent of political debates that distract it from its core mission to protect investors and oversee the markets. We believe the U.S. government has other, far more effective tools and agencies to deal with the foreign policy issues an Office of Global Security Risk (or any other similar office) would be created to address.

As noted above, we also have concerns about the ramifications of the proposed Office for the disclosure-based system that underlies the robust U.S. capital markets. Under the U.S. disclosure-based approach to securities regulation, issuers are required to disclose information that is "material" to an informed investment decision. As a result, the disclosure documents filed by foreign companies with the SEC contain information on activities they have in countries subject to U.S. sanctions to the extent such activities are "material" under established SEC doctrine. (U.S. companies are already prohibited from doing business in countries subject to U.S. sanctions and, thus, would have no such activities to disclose.) The SEC does not require, and should not change its existing legal standards to require, the disclosure of information that may relate to social or political issues, but is not material to an informed investment decision as that term has been interpreted and applied by the SEC and the courts over time.

This materiality standard was described by former SEC Acting Chairman Laura Unger in her letter of May 8, 2001 to Congressman Frank Wolf. Indeed, if the Office is ultimately established, we would strongly urge that any materiality standards it uses be guided by the principles stated in Acting Chairman Unger's May 8 letter. This would preserve both the political independence of the SEC and the time-honored materiality standard on which our disclosure-based approach to securities registration has long been based. For your convenience, a copy of that letter is attached.

America's capital markets play a crucial role in fueling U.S. economic growth, creating new jobs, and providing the financing for innovative and new technologies that transform the U.S. economy. We believe that the principal effect of politicizing the U.S. capital markets -- however worthy the foreign policy goal -- in order to try to influence the behavior of foreign countries would be to damage the U.S. capital markets.

We would be pleased to discuss this issue with you in more detail at your convenience.

Sincerely,

Marc E. Lackritz
President

cc: Laura Cox, Managing Executive for External Affairs, SEC