

Congress of the United States

Washington, DC 20515

July 20, 2000

The Honorable Arthur Levitt
Chairman
Securities and Exchange Commission
450 Fifth Street, N.W.
Room 6102
Washington, D.C. 20549

Dear Chairman Levitt:

We are troubled by the Commission's recently announced rulemaking on auditor independence. The proposal seems hurried, and the process appears designed to avoid meaningful participation by the public, by Congress, and by the new Administration. The subject of the proposed rule is very important; independent auditors are a vital part of financial reporting, and the broad services provided by the accounting profession are a significant part of our economy. Ill-advised or unnecessary regulatory restrictions on the accounting profession could impose huge costs on our economy.

The process the Commission has established for this rulemaking is unacceptably rushed. The Commission chose to wait until the waning days of the current Administration to propose this sweeping new rule on auditor independence. The Commission also chose a 75-day comment period that will expire on September 25, 2000, as Congress is preparing to recess and on the eve of the elections. The Commission should not be planning on publishing a final rule on auditor independence sometime in late 2000. As you are well aware, January 2001 will bring a new Administration and a new Congress, each of which should be afforded the opportunity to participate on a policy level. A rush to judgment by the SEC in this setting violates principles of good government that we know you share.

Wholly apart from the impending elections, the 75-day comment period is excessively and unnecessarily short, given the complexity and breadth of the Commission's rule proposal. There is no evidence set out in the Commission's rule proposal that even suggests that there is a problem caused by a broad scope of services, let alone a problem that needs to be addressed right now. The proposal, in fact, reads more like a concept release than a reasoned and well-conceived rule proposal. In addition, the Commission has asked for public comment on several possible "alternative" scope of services rules, ranging from a complete exclusionary ban to a disclosure requirement only. The Commission has also taken the unusual approach of essentially failing to engage in the required cost-benefit analysis of the proposed rule and instead requested public comment on the costs and benefits. Putting aside the validity of that approach, any reasoned public comment on costs and benefits will require adequate time for thorough data collection and analysis.

There is simply no justification for not having a longer comment period, unless the Commission has pre-ordained the result or is intent on promulgating a final rule before the November elections. Any rulemaking of such major impact to the capital markets and the

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accounting profession, such as this, should be accomplished only by a fair and deliberative process that provides a meaningful opportunity for participation by the public. A 75-day comment period does not meet that standard.

Although we commend the Commission for holding public hearings, we are also troubled by the current schedule for these hearings. The Commission did not publish details about its public hearings (e.g., how to request to testify) until July 10, and the rule proposal did not appear in the Federal Register until July 12. Nonetheless, the Commission has scheduled the first public hearing for July 26. We find it extraordinarily hard to believe that reasoned public comment can be provided by July 26 – a mere two weeks after the notice was issued, during the middle of the summer, and on the eve of Congress's August recess. As representatives from across the United States, we would also hope that the Commission will have hearings in cities other than Washington, D.C.

Finally, the Commission should seriously consider whether it should continue to go forward with the scope of services rule proposal until such time as there is a demonstrated need for the regulation. Unnecessary regulations are a drain to the American economy and often do significantly more harm than good. Accounting firms provide many value enhancing services to American businesses and are themselves an important part of our dynamic economy – before these element of our free markets are subjected to a new and heavy dose of regulation, there must be a proven need for the regulatory restriction, and the SEC has the burden of proving that need.

In the event the Commission continues with this rulemaking, we urge you and the Commission to correct the procedural deficiencies immediately by postponing the July 26 hearing and extending the comment period, so that the Commission will have available to it meaningful and informed public comment before it considers whether to promulgate a final rule.

Sincerely,

Billy Tauzin
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