Texas Society of
CPA Certified Public Accountants

April 3, 2006

Ms. Nancy M. Morris
Federal Advisory Committee Management Officer
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: File No. 265-23

Dear Ms. Morris:

One of the expressed goals of the Texas Society of Certified Public Accountants (TSCPA) is to speak on behalf of its members when such action is in the best interest of its members and serves the cause of Certified Public Accountants in Texas, as well as the public interest. The TSCPA has established a Professional Standards Committee (PSC) to represent those interests on accounting and auditing matters. We appreciate the opportunity to provide input into your deliberations on the above-referenced Exposure Draft (ED) dealing with Final Report of the Advisory Committee on Smaller Public Companies.

The PSC believes the new system of scaled or proportional securities regulation for smaller public companies proposed in this ED is necessary and can be structured to reduce the regulatory burden on smaller public companies and, at the same time, protect investors in these companies. However, we believe the recommended system is flawed in two respects. First, market capitalization is used rather than public float; second, companies far too large are defined as small public companies.

It appears that in the Advisory Committee's zest to simplify the rules, its rationale for using market capitalization as a substitute for public float exaggerates the size of public companies with stock held by insiders where there is a smaller risk to outside investors. The historical belief that the strength of securities regulation should be aligned with the need to protect investors should not be abandoned just to make it easier to perform the calculation of market capitalization over the more complex calculation of public float. Even more importantly, why would companies with market capitalizations up to thirty times larger than the market capitalization used for the current small business regulation (Regulation S-B) need relief?

Alternatively, we would recommend raising the maximum current public float and revenue limits for Regulation S-B in a rational and measured manner and providing exemption relief from SOX 404 to that group of public companies. We reject the suggested alternative in the report, the so called "ASX" approach, encompassing an external audit of the design and implementation of internal controls as ineffective and recommend an outright exemption from SOX 404 for an expanded Regulation S-B group of companies.

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The foremost job of the SEC is to protect investors. While it is important to provide a suitable regulatory environment that encourages capital formation and business growth, exemption relief from any provisions of the security laws should take into account the recent public company frauds on investors and aim to strike a balance that is tipped in the favor of protecting investors. We encourage the companies that wish to seek investors in the public markets to embrace the duties and responsibilities commensurate with such an undertaking and to realize the costs involved in being a public company.

Alternatively, there is and should be great improvement by auditors and their regulators in providing cost effective audit services to public companies, especially those that can least afford it. COSO, the PCAOB, the audit firms and the SEC have and are continuing to take action to simplify the SOX 404 procedures and reduce the costs to smaller public companies. In this dynamic environment, it would make the most sense to provide exemption relief, especially to SOX 404, in reasonable increments and give the efforts of many to simplify and reduce the costs of SOX 404 a chance. To over react to the early problems of SOX 404 implementation and risk diluting investor protection should be avoided

The following comments concern specific sections of the ED that our committee believes could be improved.

The revenue filters discussed in the Overview of Recommendations section of the ED appear to be arbitrary and use revenue as a metric. We would prefer a filter that is based on the complexity and risk of the financial structure of the company. For example, a distributor may have high revenue and a simple financial structure while another company has much lower revenues and a complex financial structure. The latter company's complex financial structure is characterized by being thinly capitalized and having convertible securities, derivatives, going concern issues, etc. Rather than revenues, each company should be compared with a set of attributes or matrix that would indicate the complexity of its financial structure and its risk to investors. Companies with a higher investor risk profile should not be exempted from regulations designed to protect investors. We firmly believe risk is a superior metric to revenue.

Recommendation III.P.1 – As stated above, we believe the revenue filter is arbitrary and uses the wrong metric. We believe SOX 404 exemptions should be based on a measured expansion of the S-B requirements until more experience has been gained with SOX 404 compliance costs.

Recommendation III.P.2 – As stated above, we would discourage the so called audit standard ASX that omits any testing of the functioning of internal controls, but rather audits the design and implementation of internal controls. To audit whether a control is in place without auditing whether it is ever followed provides no assurance to investors about the quality of a company's internal controls.

Recommendation IV.P.1 – We do not concur with the recommendation to expand disclosure exemptions for companies other than Regulation S-B files, although we do recommend expanding the scope of companies eligible to use Regulation S-B as described above. The ED significantly decreases the financial information currently provided to investors by this recommendation. The purpose of the Regulation S-B regulation system is to enable very small companies to enter the capital market by providing minimal information to investors. Consequently investors know that Regulation S-B companies are inherently more risky. Through the report's scaling system and this recommendation, the Committee is exponentially expanding the risk to investors with a minimal return in the form of lower costs to the companies.

Recommendation IV.P.2 – We do not concur with this recommendation for the same basic reasons as described in recommendation IV.P.1 above. In addition, we disagree with curtailing any financial statement or audit requirements beyond the relief already provided in Regulation S-B.

Recommendation IV.P.3 – We do not concur with the recommendation to allow companies to use Form S-3 that have not filed timely reports with the SEC in the last year. The periodic reporting requirements of the securities laws are the foundation of our scheme of investor protection by providing current information about the company to investors. Moreover, companies that choose to voluntarily sell investments to the public agree to be bound by these rules. Companies that fail to provide timely information to investors should not be rewarded by providing still less information when they are asking to register securities.

Recommendation IV.P.5 – We do not favor a relaxing of the rules banning advertising and general solicitation for certain exempt offerings as we are concerned about abuse and the protection of investors. We would, however, favor technical changes allowing for clearer application of the rules.

Recommendation V.P.1 – We can see the merit of a safe harbor protocol for legal and regulatory penalties for situations in which an honest mistake is made after a robust effort to apply GAAP to a complicated accounting situation. However, we would expect such a safe harbor would have no effect on whether an auditor qualifies his or her audit opinion. What may fall within a legal safe harbor for lawsuits or regulatory actions may still materially misstate the financial statements in the view of the auditor.

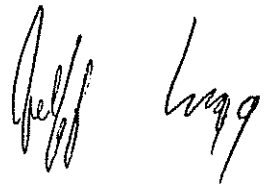
Recommendation V.P.2 – We would support the FASB's consideration of different implementation dates for small public companies. However, we believe that the FASB should make the final decision on any implementation issues with its standards after due process. We would prefer to see this coming from the FASB rather than by way of SEC regulation.

Recommendation V.S.1 – We encourage both the SEC and the PCAOB to promote more alternative choices for audit firms. We believe that both issuers and investors are

better served by having more qualified audit firms from which to choose. We recommend that the barriers to entering and expanding the field of public accounting firms be examined. One barrier is the "primary auditor" rule in the United States. Foreign audit firms are more free to form groups of audit firms without a primary auditor to audit large companies. Another barrier is liability insurance. Either through tort reform or subsidized insurance, there could be some avenue to remove barriers caused by the availability and cost of malpractice insurance.

We appreciate the opportunity to provide input into the standard setting process.

Sincerely,



C. Jeff Gregg, CPA
Chair, Professional Standards Committee
Texas Society of Certified Public Accountants