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September 17, 2007

Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: File Number S7-15-07: Smaller Reporting Company Regulatory Relief and Simplification

Dear Ms. Morris:

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to offer comments in connection with the Securities and Exchange Commission's (SEC) proposal to extend the benefits of its current optional disclosure and reporting requirements for smaller companies to a much larger group of companies. Specifically, the proposal allows companies with a public float of less than $75 million to qualify for small company requirements, combines the "small business issuer" and "non-accelerated filer" categories of smaller companies into a single category of "smaller reporting companies," and integrates the current disclosure requirements for smaller companies contained in Regulation S-B into Regulation S-K.

ICBA's Position

ICBA strongly supports the SEC's proposal to expand its small company disclosure and reporting requirements to those companies with a public float of less than $75 million, up from the current $25 million threshold. We believe that this proposal will implement

[1]*The Independent Community Bankers of America represents 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 18,000 locations nationwide and employing over 268,000 Americans, ICBA members hold more than $908 billion in assets, $726 billion in deposits, and more than $619 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

several of the ICBA-supported recommendations of the SEC Advisory Committee on Smaller Public Companies for scaling the disclosure requirements of smaller public companies and will simplify and improve the disclosure and reporting rules for smaller companies without reducing investor protection.

ICBA also supports the SEC's proposal to integrate Regulation S-B into Regulation S-K, to eliminate altogether Regulation "SB" forms, and allow small reporting companies to use an "a la carte" approach for disclosure. However, we would support a two-year phase-in period to allow users who are still using "SB" forms an opportunity to get use to the integrated approach and to give the SEC the opportunity to assess whether eliminating the "SB" forms is reducing the compliance burden on smaller public companies.

ICBA recommends that the SEC go further with it proposal for scaled disclosure for small reporting companies and develop another scaled disclosure regime for companies between $75 million and $787 million in market capitalization as recommended by the Advisory Committee. ICBA continues to support the Advisory Committee recommendations for exempting micro-cap companies (with equity capitalizations of $128 million or less) that have revenue of less than $125 million from the internal control attestation requirements of Section 404 of the Sarbanes Oxley Act of 2002 (SOX) and exempting small-cap companies (with equity capitalizations of between $128 million and $787 million) that have revenue of less than $250 million from the external audit requirements of SOX Section 404. ICBA urges the SEC to adopt these recommendations.

ICBA's Specific Comments

ICBA strongly supports the SEC's proposal to expand the availability of its disclosure and reporting requirements for smaller companies to those companies with a public float of less than $75 million. The Advisory Committee received numerous comments, including those from ICBA, to the effect that the current $25 million public float and revenue standards in Regulation S-B are too low and should be increased to permit a broader range of smaller companies to be eligible for its benefits, particularly in light of the increased costs and regulatory burden associated with reporting obligations under the Securities Exchange Act of 1934 (Exchange Act). In our comments to the Advisory Committee, ICBA noted that the current $25 million standard results in Regulation S-B being available only to the very smallest public companies and that if the regulation was to have any meaningful benefit to new and smaller public companies, the threshold must be raised significantly.

ICBA also agrees that the term "small reporting company" should replace the term "small business issuer" which defines the companies eligible currently to use the Regulation S-B disclosure requirements. The proposed definition also would include most non-accelerated filers which generally are filers with a public float of less than $75 million. These companies are currently eligible to use different compliance dates applicable to internal control reporting under Section 404 of SOX and have different periodic reporting deadlines under the Exchange Act. The SEC estimates that if its

proposals were adopted, 4,976 companies or 42% of all companies that file Exchange Act periodic reports, would qualify as small reporting companies.

ICBA also supports the SEC's proposal to integrate Regulation S-B into Regulation S-K and to eliminate altogether Regulation "SB" forms. We agree that integration will simplify regulation for small business and lower costs. The current dual system is too complex and deters smaller companies from taking advantage of the scaled regulation. Lawyers complain, for instance, that it is often too difficult to maintain expertise in two different disclosure systems.

More importantly, we agree with the Advisory Committee that "SB" forms never achieved market acceptance and that, in many cases, smaller reporting companies felt stigmatized if they took advantage of Regulation S-B. We believe that integrating Regulation S-B into Regulation S-K and eliminating "SB" forms will further the goal of eliminating unwarranted negative perceptions associated with smaller reporting company disclosures. However, to accommodate those small companies that are currently using the "SB" forms, we would suggest a two-year phase-in period to allow users who are still using the "SB" forms an opportunity to get use to the integrated approach and to give the SEC the opportunity to assess whether eliminating the "SB" forms is reducing the compliance burden on smaller public companies.

ICBA also commends the SEC for proposing an "a la carte approach" for small reporting companies. Under the "a la carte" approach, a small reporting company can choose, on an item-by-item or "a la carte" basis, to comply with either the scaled disclosure requirements made available in Regulation S-K for smaller reporting companies or the disclosure requirements for other companies in Regulation S-K, when the requirements for other companies are more rigorous. We believe that the "a la carte" approach will provide maximum flexibility for smaller reporting companies and will benefit investors. It will encourage smaller reporting companies to determine for themselves the proper balance and mix of disclosure for their investors.

However, ICBA recommends that the SEC go further with its proposal for scaled disclosure for small reporting companies and develop another scaled disclosure regime for companies between $75 million and $787 million in market capitalization as suggested by the Advisory Committee. We believe that these companies also need a simplified disclosure scheme that would reduce their compliance costs without sacrificing investor protection. A simplified disclosure scheme would provide greater capital formation opportunities for these companies and encourage more robust smaller company participation in the United States capital markets. If the SEC were to adopt a second scaled disclosure system for smaller public companies with market capitalization of between $75 million and $787 million, the SEC would then have a comprehensive scaled disclosure system for all smaller public companies comprising the lowest 6% of total U.S. market capitalization.

ICBA also continues to support the SEC's Advisory Committee recommendations on exempting micro-cap companies (with equity capitalizations of $128 million or less) that have revenue of less than $125 million from the internal control attestation

requirements of Section 404 of the Sarbanes Oxley Act and exempting small-cap companies (with equity capitalizations of between $128 million and $787 million) that have revenue of less than $250 million from the external audit requirements of SOX Section 404. We agree with the Advisory Committee that with more limited resources, fewer internal personnel and less revenue with which to offset the costs of Section 404 compliance, smaller public companies have been disproportionately impacted by the burdens associated with Section 404 compliance. Even with the new Auditing Standard No. 5, ICBA predicts that smaller public companies will still find SOX 404 to be unduly and unnecessary burdensome and costly.

Conclusion

ICBA strongly supports the SEC's proposal to expand the availability of its small company disclosure system to those companies with a public float of less than $75 million and believes that the proposal will simplify and improve the disclosure and reporting rules for smaller companies without reducing investor protection. ICBA supports the SEC's proposal to integrate Regulation S-B into Regulation S-K and to eliminate altogether Regulation "SB" forms. However, to accommodate those small companies that are currently using the "SB" forms, we would suggest a two-year phase-in period to allow users who are still using the "SB" forms an opportunity to get use to the integrated approach and to give the SEC the opportunity to assess whether eliminating the "SB" forms is reducing the compliance burden on smaller public companies. ICBA recommends that the SEC go further and develop another scaled disclosure regime for companies between $75 million and $787 million as suggested by the Advisory Committee. ICBA continues to support the recommendation of the Advisory Committee to partially or fully exempt from SOX 404 those companies with market capitalization of less than $787 million.

ICBA appreciates the opportunity to offer comments in connection with its proposal for smaller reporting company regulatory relief and simplification. If you have any questions about our letter, please do not hesitate to contact me at 202-659-8111 or Chris.Cole@icba.org.

Sincerely,

Christopher Cole

Christopher Cole
Regulatory Counsel