

# United States Senate

WASHINGTON, DC 20510

April 12, 2012

Mary L. Schapiro, Chairman  
Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549

Re: SEC Initiatives under the Dodd-Frank Act – Special Disclosures Section 1502 (Conflict-Free Minerals)

Dear Chairman Schapiro:

I am writing to express my concerns about the Security and Exchange Commission's (SEC) proposed regulation of the Dodd-Frank Wall Street Reform and Consumer Protection Act's Conflict-Free Minerals provision (Section 1502). The pending regulation will disadvantage U.S. manufacturers by creating unwieldy and expensive compliance protocols without fulfilling the statute's intent: enhancing supply chain transparency. When issuing the final rule, the SEC should adhere to the true intent of the conflict-free mineral provisions and establish realistic and transparent requirements considerate of humanitarian and economic realities. More specifically, I urge the SEC to exempt recycled or scrap minerals, including scrap tungsten, from any audit requirements.

For example, while approximately one percent of the supply of virgin tungsten is mined in conditions of conflict, such as the circumstances in the Democratic Republic of the Congo (DRC), eighty-five percent of the world's tungsten supply is controlled by China. The increasing cost of Chinese tungsten has led many manufacturers to use recycled tungsten instead, which benefits the environment while reducing manufacturing costs.

The SEC's proposed rule categorizes recycled or scrap minerals as "DRC conflict free," but does not define the terms "recycled" or "scrap." Furthermore, any issuer seeking to use this cost-effective and environmentally-friendly approach would need to provide its reasons for believing that the mineral in question is from recycled or scrap sources in its Conflict Minerals Report, which would include due diligence on the source of the material. However, the proposed rule does not specify the due diligence required. Thus, though recycled minerals are to be labeled "conflict free," the reporting requirement still presents a significant burden for manufacturers who wish to use recycled minerals like tungsten, as tracing the source of any recycled material is often impossible.

Most U.S. manufacturers fully support the humanitarian aims of Section 1502. However, impractical audit requirements for recycled materials do little to advance those goals. Exempting scrap or recycled minerals, including scrap tungsten, from the reporting requirements would

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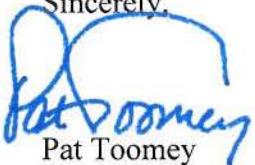
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meet the intent of Section 1502 while encouraging a practice that benefits the economy, creates jobs, and helps protect the environment.

I appreciate your consideration of this letter and look forward to hearing from you.

Sincerely,



Pat Toomey  
United States Senator