March 2, 2011

Mary L Schapiro, Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Via email: rule-comments@sec.gov

REF: File Number S7-40-10
SEC Initiatives under the Dodd-Frank Act – Special Disclosures Section 1502 (Conflict Minerals)

Dear Chairman Schapiro:

On behalf of the American Apparel & Footwear Association (AAFA) – the national trade association of the apparel and footwear industries, and their suppliers – I am writing to submit these comments in connection with the above captioned request for comments.

AAFA's members include numerous companies that design, manufacture, transport, distribute, and sell apparel and footwear in and throughout the United States. Collectively, they employ hundreds of thousands of people throughout the country and the world. AAFA has about 400 member companies who own, produce for, or market more than 700 brands of clothing, footwear, and other fashion products. Nearly all stakeholders in the industry supply chain are represented in our membership, including large, medium, small, and micro businesses; retailers of all sizes; designers; manufacturers; importers; wholesalers; private label; brand owners; and suppliers of inputs and services. We represent the greatest cross-section of this industry.

As you can imagine, our industries are among the most globalized in the world. Our members make and sell product in virtually every country in the world. As a result, even the smallest companies often have complicated supply chains that stretch across continents, countries, and factories. Working with multiple partners in multiple time zones and facing multiple regulatory environments, they have to manage a diverse array of compliance challenges covering labor, health, environment, product safety, intellectual property, chemical management, product quality, security, labeling, and customs.

It is with this background in mind that we offer the following comments.

We strongly support the goals of the Conflict Minerals provision in the Dodd Frank Act. Collectively and individually, our members have participated in similar kinds of initiatives to ensure that our sourcing does not inadvertently support undesirable practices, such as child labor in Uzbekistan or mulesing of sheep in Australia. While we support efforts to prevent Conflict Minerals to enter into global supply chains, including the supply chains of our member companies, we are concerned that application of this regulation may have unintended adverse consequences for apparel and footwear companies. Although the products typically found in our members' supply chains are not normally associated with either the minerals identified in the Conflict Minerals regulation, some apparel and footwear companies may have minor components that incorporate these minerals.

AAFA has signed onto a larger set of industry comments that were submitted on behalf of several industry associations. We hereby incorporate those comments into these. In so doing, we would like to amplify several points that have particular relevance to the apparel and footwear industry.

Among other things, we encourage the SEC to ensure that the final rule include several features.

First, we urge the SEC to focus the rule on those products and processes that present the greatest opportunity to achieve the goals of the legislation. As noted, the incidence of these kinds of minerals in our industry supply chains is extraordinarily low. Nevertheless, some apparel and footwear companies do have products where there may be incidental use of conflict minerals. The light up features of certain kids' shoes or warmer in certain kinds of outerwear are two such examples.

We believe there is considerable flexibility on the part of the SEC to design the rule so that such components are not the main focus of this regulation. For example, the rule applies where conflict minerals are "**necessary to the functionality or production"** of a product manufactured by such person. We would recommend the rule be drafted such that it not cover products where the primary functionality of the product was involved. In the above cases of the light up shoes, if the electronics for the light up shoes fail, the shoe still performs its basic function. Similarly, if the heating element for a jacket fails, the garment itself still retains its primary functionality. Since the electronics in both cases are not crucial to the functionality of the ultimate product, we would envision the rule not applying to these products.

Another approach would involve the designation of *de minimis* provisions in cases where conflict minerals may be present in trace quantities, to limit the application of the rule as well. Other methods to limit application would include:

- Designing the scope so it does not include minerals use in chemical processes or those present in tools, machinery, or other equipment used in the production of goods.

- Clarifying that the derivatives of the conflict minerals only include tin, tungsten, tantalum, and gold.

- Clarifying that recycled material is not treated as originating in the DRC or adjoining countries.

Second, we urge the SEC to retain a flexible approach to a company's efforts to conduct due diligence and reasonable inquiry. Supply chains vary greatly, even within our industry. Standards should be broad enough to encompass reasonable supplier declarations and representations as appropriate to determine that Conflict Minerals did not originate in conflict regions of the DRC or in any of the adjoining countries. Companies should not have to detail exhaustive supply chain diligence but rather be able to rely upon reasonable assurances from their suppliers. This is especially the case in our industry where many of our members will not have knowledge of individual mineral components since they may be many steps away from a mine or smelter. Usually, our members don't specific minerals, but rather performance features of an electronic component. Moreover, in most instances in our industry, electronic components are sourced as complete packages from vendors who in turn purchase them from other manufacturers. In this regard, we would support the SEC developing guidance, but not actual mandates, on what constitutes due diligence.

Third we urge the SEC to recognize through its rule-making and enforcement discretion that the infrastructure to secure the objectives of the Conflict Minerals provision simply does not exist at this time. Over time, companies will become increasingly sophisticated in their ability to comply with the many nuances of this rule while governmental and non-governmental resources are developed. Initially, however, there will be considerable challenges as supply chains orient to set up the required assurances and validations that will be necessary before the rule can become fully operational and effective. Among other things we hope that the SEC recognize that 100 percent compliance may be an aspirational goal. We would also encourage the SEC to identify a phased in and transitional approach so that those products and processes that are included will have sufficient time to orient their supply chains toward compliance.

Thank you for again for providing this opportunity to submit comments and for extending the comment period to incorporate additional perspectives. As you can imagine, this rule has cause considerable confusion. Although AAFA and many in the business community support the goals of the Dodd Frank Act to help ensure that such minerals not be used to fuel African conflicts, we are concerned that the regulation may result in compliance costs and burdens that are difficult, if not impossible to meet. We are also concerned that many companies may still be unaware of the potential compliance requirements they may have to face.

We believe the best approach forward is to define a clear, predictable, and phased in regulations and enforcement regime that focuses on those products and processes with the greatest opportunity to make a difference.

If you have questions, please contact Steve Lamar at 703-797-9041 or via email at slamar@apparelandfootwear.org.

Sincerely,