



November 29, 2011

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Proposed Rules on Conflict Minerals Release No. 34-63547; File No. S7-40-10, RIN 3235-AK84

Dear Secretary Murphy:

The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than 3 million businesses and organizations of every size, sector and region.

The Chamber supports the fundamental goal, as embodied in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), of preventing the exploitation of conflict minerals for the purpose of financing human rights violations within the Democratic Republic of the Congo ("DRC").

The Chamber has filed two comment letters regarding the proposed rules on February 28, 2011 and July 18, 2011 and would like to thank the U.S. Securities and Exchange Commission ("SEC") for holding a roundtable to better understand the concerns and consequences surrounding the proposed rule.

The Chamber wishes to supplement those comment letters and raises additional concerns with the SEC:

- 1) **The impact of the proposed rules on recycled material and the supply chain; and**

2) Failure to provide additional analysis regarding vendors of public companies and small businesses.

The Chamber believes that the issue of recycled materials should be specifically addressed by the SEC in finalizing the proposed rules. The Chamber also believes that an additional comment period is needed to understand the economic impacts and compliance costs of the proposed rules upon the vendors of public companies and small businesses. While the Chamber first made this suggestion in July 18, 2011, we also wish to draw special attention to the October 25, 2011 letter of the Small Business Administration (“SBA”) requesting a new cost benefit analysis.

Our concerns are provided in more detail below.

Discussion

The Chamber supports the fundamental goal of preventing the exploitation of conflict minerals for the purpose of financing human rights violations within the DRC.

However, in the February 28th and July 18th comment letters, the Chamber noted a series of fundamental flaws with the proposed rule, including a failure to meet the mandates of Section 23 (a) (2) of the Exchange Act, which requires consideration of the proposed rule’s impact upon competition, the burdens placed upon business and the difficulties of compliance. Because of these concerns, the Chamber requested that the SEC voluntarily submit the proposed rule for an Office of Information and Regulatory Affairs (“OIRA”) regulatory review, as well as compliance with Executive Orders 13563 and 13579. It should be noted that the SEC has stated an intention to comply with these Executive Orders, at least in part.

A. Recycled Materials

Secondary smelters generally are located in the United States and Europe, using scrap as their starting material to produce virtually pure metals and minerals. Generally, recycled material tends to be lower in price than material produced by primary smelters.

The scrap used by secondary smelters comes from many sources and scraped end products making it virtually impossible to trace the scrap back to the mines where metals and minerals may have originated from years or decades ago. If the proposed rule requires users to trace recycled material back to the mines, it would limit the market for all secondary smelters to customers outside the United States. This would have a negative impact on US manufacturers:

- Supply from secondary smelters would not be available to U.S. manufacturers, thus requiring US companies to buy more expensive primary smelted minerals; and
- Mineral supplies for US manufacturers would be reduced leading to a negative impact on availability, pricing, and competitiveness of US companies.

By forcing U.S. manufacturers to use primarily smelted materials, the proposed rule will incentivize mining, obviating Congressional intent, while preventing companies from following policies that can lessen environmental concerns.

Issuers who purchase metals as raw material should be able to determine based on a reasonable inquiry if the metals are recycled or scrap. The same standard of “reasonable inquiry” for determining that the minerals did not originate from conflict mines in the DRC or adjoining countries should apply to recycled materials. Should the minerals be determined to be recycled or scrap minerals, the issuer should be permitted to end the inquiry at that point—without submitting a Conflict Minerals Report and undertaking the associated audit. Under such a system, issuers are still accountable to the SEC for providing fraudulent information and thus cannot simply state that their metals are recycled without inquiring of the origin.

B. Impacts Upon Small Businesses

As was stated in the Chamber’s previous comment letters, the proposed rule poses a number of supply chain complexities that must be addressed. Additionally, the original release failed to take into account the impacts of the proposed rule upon vendors of public companies, many of whom are small businesses.

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While the July 18, 2011 letter raised several impacts upon small businesses, the Chamber wishes to note that the SBA in its October 25, 2011 letter raised very similar concerns and called for a new cost benefit analysis. Small businesses are a vital cog of the American economy and a prime creator of jobs. Failure to take into account the adverse consequences upon small businesses can have a deleterious effect on the economy and capital markets, putting the United States at a competitive disadvantage.

Conclusion

The CCMC would again like to thank the SEC for this opportunity to comment on the proposed rule. We believe that the issues raised today are important and should be explored by the SEC. Also, in light of the issues raised in the recent roundtable and how the proposed rule goes well beyond those that were represented we would ask that the SEC give companies, many of whom are new to the rule, ample time to allow for further commenting on the proposed rule. Knowing that the SEC is preparing to finalize the proposed rule, we would strongly suggest that the SEC take action after January 1, 2012 to give companies that ample period of time and for the SEC to review the issues raised in this letter. The Chamber also stands by the constructive suggestions made in earlier letters including the formation of working groups and phased in implementation periods.

We continue to look forward to working with the SEC throughout this process.

Sincerely,



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U.S. Chamber of Commerce



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