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March 16, 2017

Acting Chairman Michael S. Piwowar  
United States Security and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549

RE: Comments Related to the SEC Conflict Minerals Rule under Dodd-Frank Section 1502

Dear Chairman Piwowar:

On behalf of the Copper & Brass Fabricators Council (CBFC), we submit these comments in response to your invitation to comment on the rule and its implementation.

The CBFC is a trade association that represents the principal copper and brass mills in the United States. These mills together account for fabrication of more than 80% of all copper-based, semi-fabricated products produced in the United States, including sheet, strip, plate and foil, bar and rod, plumbing, commercial, and OEM tube, forgings, shapes, and profiles. The products are relied upon for a wide variety of applications, chiefly in the architectural, automotive, construction, defense, and electronic/electrical industries. The far-ranging uses of the products made by the CBFC member companies play an important role in the economy and national security of the United States. A healthy and vibrant copper-and-brass-mill industry has always been, and remains, an essential component of the U.S. manufacturing base. More information about the CBFC and its member companies is available at [www.cbfc.us](http://www.cbfc.us).

Section 1502 of the Dodd-Frank act of 2010, requiring publicly-traded companies to disclose the sources of tin, tantalum, tungsten and gold in their products, has been controversial, burdensome and in need of repeal or reform as it has been counterproductive, in the view of many, to the intent of solving the armed conflict in the Democratic Republic of the Congo and surrounding countries.

The following is a brief list of academics and social activists who, by their own words, find Section 1502 to be troublesome:

1. Laura Seay, Assistant Professor of Government, African Studies with a focus on Central Africa, Colby College.

In a January 5, 2012, paper, Professor Seay (she was a professor at Morehouse College at the time) suggested that Section 1502 of Dodd-Frank, even though it had yet to be implemented, "...has created a de facto ban on Congolese

mineral exports, put anywhere from tens of thousands up to 2 million Congolese miners out of work in the eastern Congo, and, despite ending most of the trade in Congolese conflict minerals, done little to improve the security situation or daily lives of most Congolese.” In **What’s Wrong with Dodd-Frank 1502? Conflict Minerals, Civilian Livelihoods, and the Unintended Consequences of Western Advocacy,** she examines the effects of the legislation and recommends alternatives.

In a July 17, 2015, blog published in the Washington Post, she interviews Alex de Waal, Tufts University Scholar and editor of **“Advocacy in Conflict,”** in which Professor Seay contributed a chapter on the conflict minerals campaign in the DRC, to explore the problems of misguided advocacy efforts such as those exemplified by the conflict minerals rule.

2. Celia R. Taylor, Professor at Sturm College of Law, University of Denver, specializing in Corporate Governance and Securities Law.

In a 2012 Harvard Business Law Review Online article, **“Conflict Minerals and SEC Disclosure Regulation,”** Professor Taylor asserts that she is an advocate of disclosure and the use of disclosure requirements to increase corporate social responsibility. Even so, she opines that the “...conflict minerals provision of Dodd-Frank poses serious risks to the integrity of such efforts. The provision and the rules drafted to promulgate it go far beyond disclosure and may impede issuers’ ability to conduct business in the DRC region.”

3. Dominic Parker, Assistant Professor, Agricultural and Applied Economics, University of Wisconsin.

In an extensive study published in June 2015, **“Resource Cursed or Policy Cursed? U.S. Regulation of Conflict Minerals and the Rise of Violence in the Congo,”** Professor Parker found that the Dodd-Frank legislation “...increased looting of civilians, and shifted militia battles towards unregulated gold mining territories. These findings are a cautionary tale about the possible unintended consequences of boycotting natural resources from war-torn regions, and the use of international resource governance interventions.”

4. Marcia Narine, Professor of Law, University of Missouri, and expert on corporate governance and supply chain management.

Professor Narine is a vocal critic of Dodd-Frank 1502 and an *Amici* in support of the plaintiffs in *NAM et al. v. SEC*. She is and has been very active in working to alleviate suffering in the DRC. In a recent Business Law Prof Blog posting (**“The Conflict over Conflict Minerals and Other Social**

**Governance Disclosures,**” August 21, 2015), she states “I know the situation is terrible. But it won’t change and hasn’t changed because of a corporate governance disclosure that most average consumers won’t read...and won’t necessarily act on if they did read it.” Note, however, that she supports reform of Dodd-Frank and not necessarily repeal.

5. An “Open Letter” from 70 academics, government officials, journalists, and others from the DRC and around the world, to “government, companies, NGOs, and other stakeholders in efforts of various kinds related to the issue of ‘conflict minerals’. Date unknown, but sometime in 2014.

This letter from an interesting collection of 70 interested parties laments that Dodd-Frank has “...inadvertently incentivized buyers on the international market to pull out of the region altogether and source their minerals elsewhere,” and sets forth five recommendations to address the conflict in the DRC.

6. David Aronson, Freelance Writer, Editor of [www.congoresources.org](http://www.congoresources.org); Mvemba Dizolele, Peter Duigan Distinguished Visiting Fellow, Hoover Institution; and Rick Goss, Senior Vice-President of Environment and Sustainability, Information Technology Industry Council. Witnesses at May 21, 2013, House Financial Services Committee, Monetary Policy and Trade Subcommittee Hearing on “The Unintended Consequences of Dodd-Frank’s Conflict Minerals Provision.”

At the hearing, Mr. Aronson stated that 1502 is a case study in how good intentions can go awry. Mr. Dizolele argues a strong case against 1502, concluding that it “...builds on a weak foundation and requires the buy-in of the very negative actors it seeks to tame. This approach perverts basic peacemaking models and rewards criminals and would-be spoilers.” Mr. Goss acknowledges that 1502 has raised awareness of the problems in the DRC, but laments that it has resulted in a de facto embargo. Huizenga (R-MI), vice-chairman of the subcommittee at the time of the hearing, but the Chairman now in the 114<sup>th</sup> Congress, made a strong case opposing the 1502 approach. Pittenger (R-NC) echoed the sentiment.

Finally, we note that early on there was some skepticism within the SEC regarding the potential for the Rule to relieve the distress in the DRC. Commissioner Gallagher and you recognized that the rule could likely be counterproductive in reversing the conflict in the DRC. In a Joint Statement on the Conflict Minerals Decision (by the D.C. Circuit) on April 28, 2014, you and Commissioner Gallagher alluded to the possibility that a finding that the entire rule is invalid would be a good thing because it “...would permit Congress to reconsider whether Section 1502 achieves the benefits that it was supposed to attain. Unfortunately, the evidence is that it has been profoundly counterproductive, resulting in a de facto embargo on Congolese tin, tantalum, tungsten, and gold, thereby impoverishing approximately a million legitimate miners

*Acting Chairman Piwowar, SEC*

*March 16, 2017*

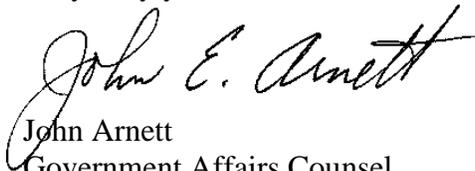
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who cannot sell their products up the supply chain to U.S. companies.” We believe that understanding of the weaknesses of the Dodd-Frank Section 1502 continues to the present and we appreciate that you were able to see the unintended consequences at an early stage.

As the United States Congress considers legislation that would repeal Section 1502 of Dodd-Frank, we appreciate the Commission’s efforts, through guidance documents for example, to reduce the reporting burden on reporting companies and to alleviate the risks of worsening the conditions in the DRC and surrounding countries on the very people whose lives the law was intended to improve.

Please let us know if there is anything else we can do to assist in the Commission’s efforts.

Very truly yours,



John Arnett

Government Affairs Counsel

Copper & Brass Fabricators Council, Inc.

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