November 15, 2005

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-9303

Dear Mr. Katz:

I have been in the securities business for 45 years and thus am intimately familiar with the positive role played by regulation in maintaining the integrity of our markets. Because of my unusually long perspective, it is easier for me to see than for others to see how the impact of regulation has taken a recent change for the worse. It was necessary to address the evils of Enron, WorldCom and analyst conflicts. However, one unfortunate by-product of the solutions implemented was to erode the capital markets for small companies. The enclosed remarks and exhibits attempt to demonstrate my point.

Sincerely,

John W. Adams
Chairman
Adams Harkness

JWA/tmf

Ref.: Release No. 34-52635; File No. S7-09-05

Testimony regarding Commission Practices under Section 28(e)

Grave Danger – Please Read

This hearing is focused on soft dollars, an issue which is just part of a much larger fabric. We urge the Commission to step back and take a look at the fabric first—i.e. to begin by viewing the broader capital markets of which soft dollars are a part.

A broader view reveals the following relevant facts:

1) The private equity markets are setting new highs in terms of money raised—see Exhibit I.
2) Hedge funds are setting new highs in terms of assets managed—see Exhibit II.
3) The U.S. Market for Initial Public Offerings (IPO's) is not setting new highs—see Exhibit III.
4) In contrast, the London market for IPO's is setting new highs—see Exhibit IV.

Why is the U.S. Market for IPO's laboring when the financial markets around it are prospering mightily? There is a clear answer to this question and it involves soft dollars in part.

As you know, the small business sector of the U.S. economy creates almost all of the net new jobs in the economy and has for 30 years. The market for IPO's is an important barometer of the health of small business overall. Simply explained, the IPO market is a virtuous circle with four components:

1) Venture capitalists invest in small companies.
2) The best of the small companies come public.
3) Research on and trading of these IPO stocks attract institutional (and some retail) interest.

4) Venture capitalists take advantage of the liquidity so created and reinvest proceeds from selling mature investments into making fresh new ones.

The dollar amount raised by IPO's in 2005 will exceed the low-water marks in 2002 and 2003 but will be less than 2004 and only 40% of the peak years of 1999 and 2000 (see Exhibit III). There may be a variety of reasons for this weak recovery but the obvious one is increased regulation. The most damaging regulation by far is Sarbanes-Oxley and its requirement to demonstrate the efficacy of internal controls. Sarbox adds $2 to $3 million of cost to being a public company, a relatively small burden for large companies but a devastating burden for many smaller ones. The net effect has been to drive some small public companies to go private—or to merge—and, far more important, raise the bar for the size required for a private company to come public. In 1999-2000, $25 million IPO's with a total market cap of $75 million were common. Today the minimum requirements are typically $60 million and $200 million respectively.

Another critical link in the IPO virtuous circle is research. New regulations concerning the independence of research, how research analysts are paid and how soft dollars are distributed have had the unintended effect of shrinking the amount of research being done. Today, over half of NASDAQ listings are covered by no more than one sell-side analyst and half of that half is covered by none. Ironically, the void of research is this sector is so desperate that NASDAQ itself is contemplating an entry into the research business.

If one accepts that the market for IPO's is laboring and that the amount of research is shrinking, then the issue of soft dollars takes on new importance. If changes in those regulations cited above have the unintended effect of further shrinking the amount of research being done in the small-cap sector, the result could be even more harmful to the IPO market and positively discouraging to the entire segment of small cap/mid cap investing.

If a change in regulations were to encourage more research in small cap companies, it is likely that the current unfavorable environment for IPO's can be turned around.

We do not quarrel that the ills addressed by Sarbanes-Oxley and the Global Settlement needed addressing. Clearly they did. However, some of the "addressing" has had unintended consequences by way of wounding the IPO process which is, as stated at the outset, a vital engine within the United States economy. Indeed it is the only part of our economic model that is unique to this country.

Most galling of all is that rivals of the U.S. capital market—specifically the AIM market in London—openly sell their freedom from Sarbanes-Oxley as a major attraction. As demonstrated by Exhibit IV, the London market for IPO's (of which AIM is the major part) is booming. For the first time, London is now attracting the IPO's of U.S. companies. In effect, we are seeing our seed corn stolen away.

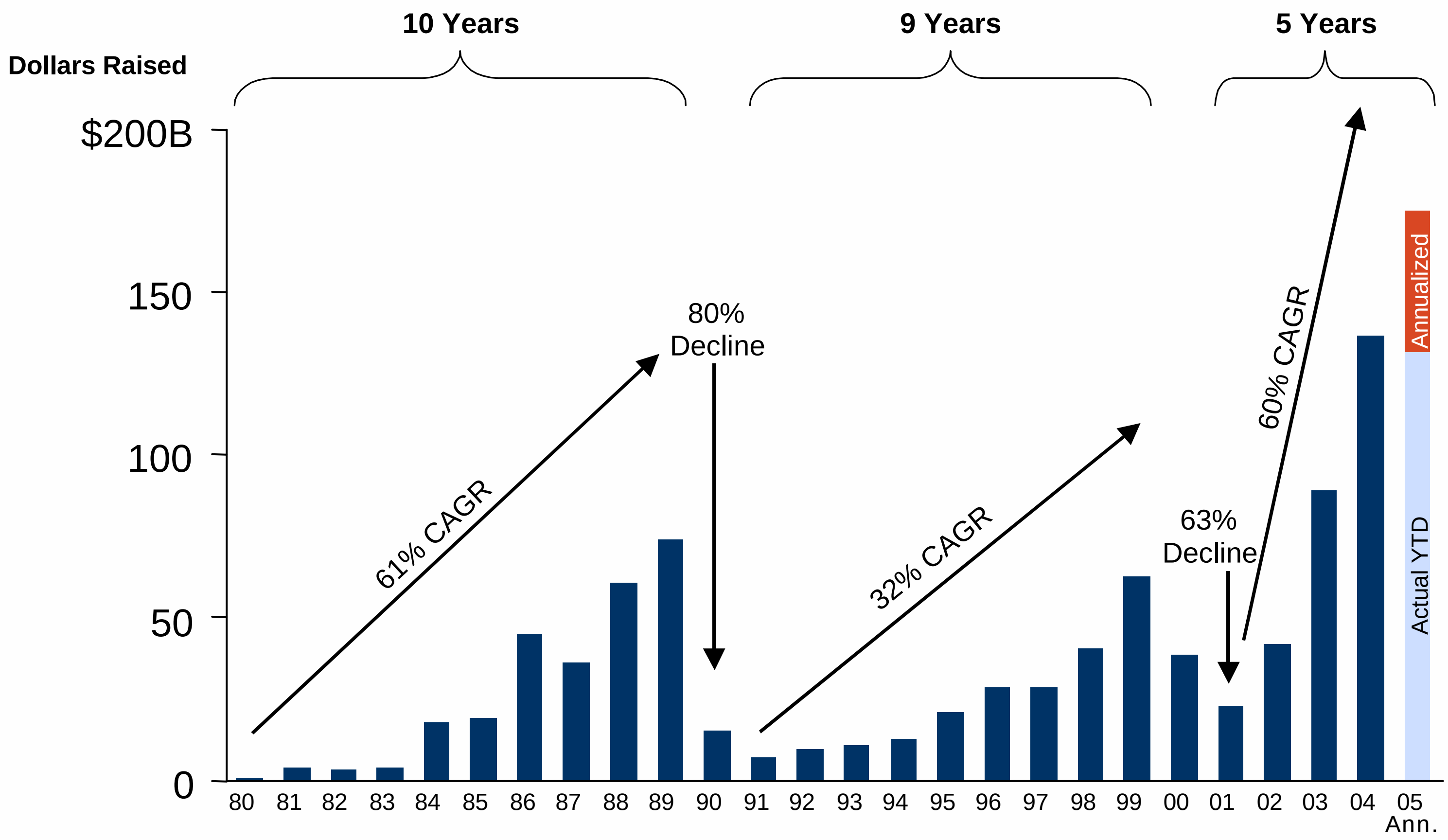
The AIM market is no longer unique. Bourses in Germany, France and Scandinavia have now started separate small cap listings that feature light regulation and ease of access. Ironically, we seem to be the only country that is making matters more difficult for small companies. In an interview given to the Financial Times in July, Representative Oxley admitted that Sarbox had done considerable damage to smaller companies but also stated that Congress would not revisit the issue. The Commission can help to change the negative environment for small companies by making it easy for institutions to spend soft dollars on small cap research.

Adams Harkness
Your Partner in Growth

John Adams, Chairman, Adams Harkness
November 2005

Exhibit 1

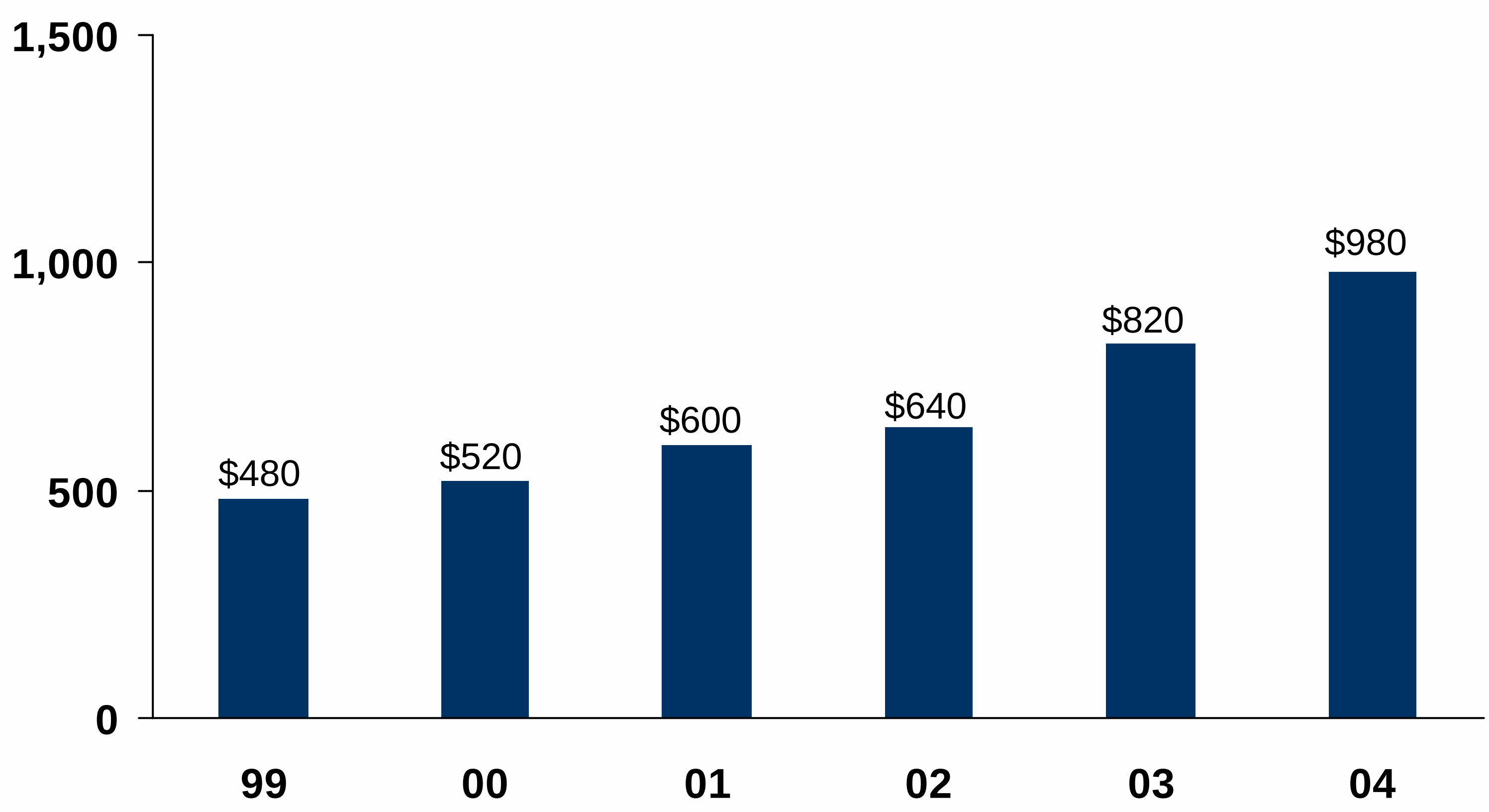
Private equity is a cyclical business in the midst of an all-time record year



Source: NorthCastle Partners

Exhibit 2

Hedge Funds have continued to grow

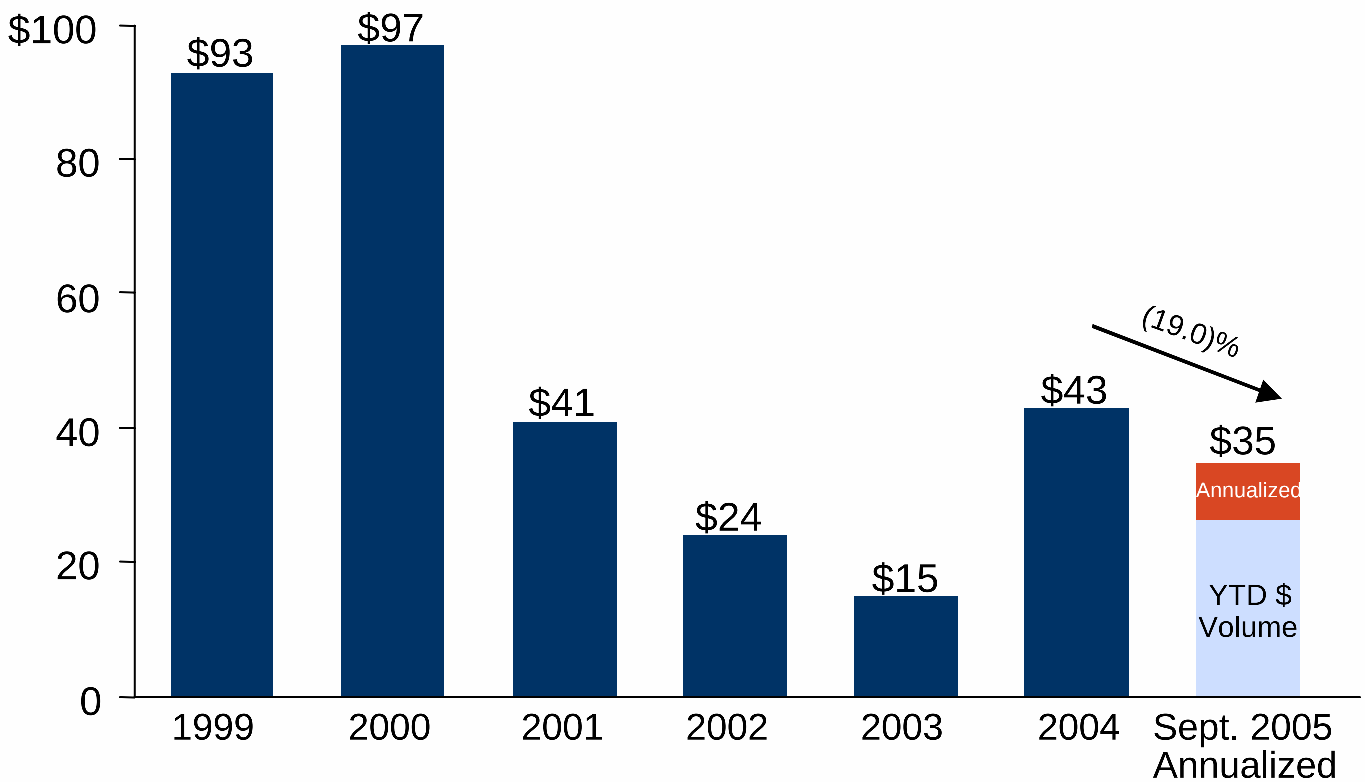


# of Funds (1995=2,383)	6,200	6,500	7,000	7,500	8,100	8,700

Source: NorthCastle Partners

Exhibit 3
The IPO market has failed to recover to prior peaks

$Raised in Billions

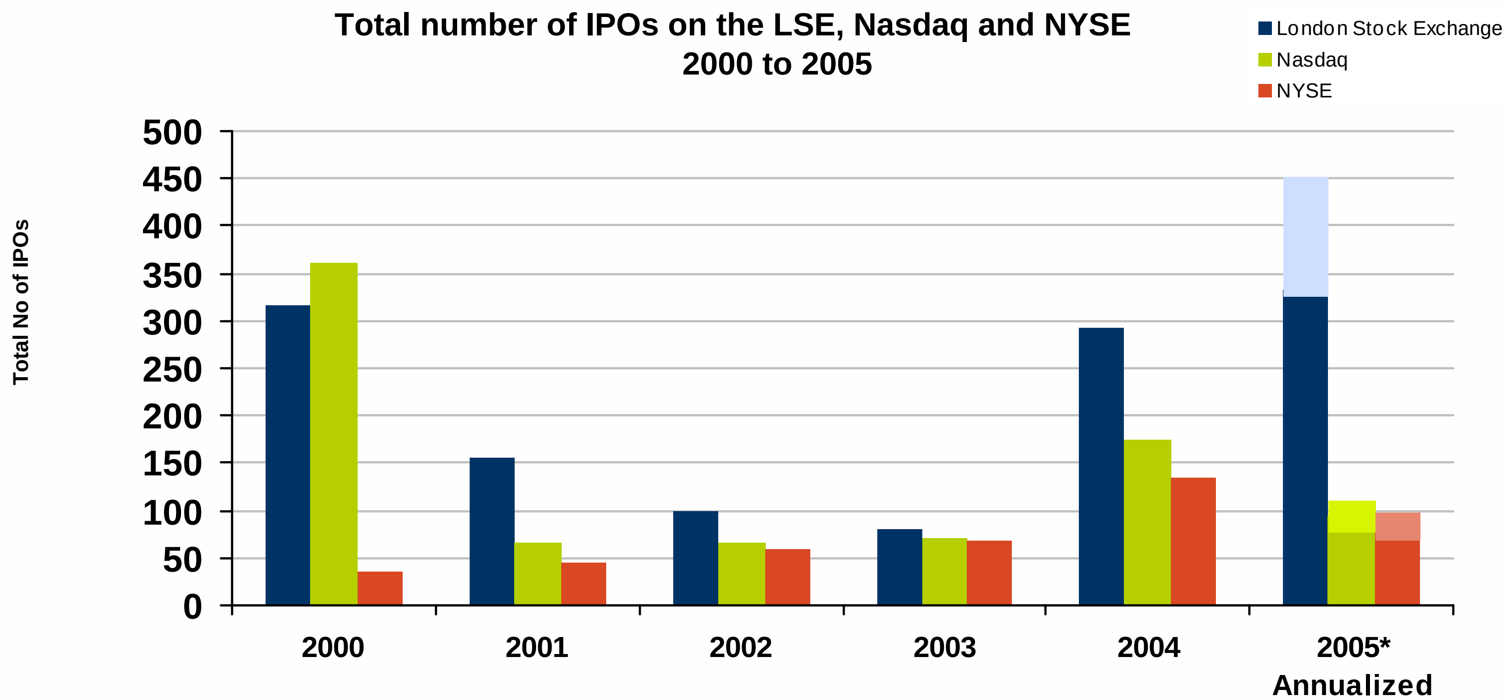


# of IPOs	486	406	83	70	68	216	218

Source: NorthCastle Partners

Exhibit 4

London Stock Exchange: AIM accounts for roughly 80% of the total



- **London Stock Exchange - 423 new companies joined in 2004, 293 of which were IPOs, 49 of which were international**
- **London Stock Exchange** – 332 IPOs as of September 30, 2005
- **NYSE** – 131 IPOs in 2004, 11 companies of which were international
- **Nasdaq** – 166 IPOs in 2004, 18 of which were international

* As of 9/30/05

Source: London Stock Exchange – October 2005, London Stock Exchange trade statistics and individual exchange websites

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