

COUNCIL OF INSTITUTIONAL INVESTORS

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Via Hand Delivery

October 20, 2008

The Honorable Christopher Cox
Chairman
United States Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Rulemaking Petition File No. 4-555

Dear Mr. Chairman:

I am writing on behalf of the Council of Institutional Investors (“Council”). The Council is a nonprofit association of more than 140 public, union and corporate pension funds with combined assets that exceed \$3 trillion.¹

On January 25, 2008, we hand delivered to you a letter (“January Letter”) requesting that the “Securities and Exchange Commission (“SEC”) pursue rule-making that would require public companies to provide shareowners with a plain-English descriptive narrative of the reasons for a change in external auditors in *all* cases of such a change.”² The request was the result of a vote by Council general members³ at our fall 2007 meeting adopting the following policy on external auditor departure and disclosure:

Disclosure of Reasons Behind Auditor Changes: The audit committee should publicly provide to shareowners a plain-English explanation of the reasons for a change in the company’s external auditors. At a minimum, this disclosure should be contained in the same Securities and Exchange Commission filing that companies are required to submit within four days of an auditor change.⁴

¹ Additional information about the Council of Institutional Investors (“Council”) and its members is available at <http://www.cii.org/about>.

² Letter from Jeff Mahoney, General Counsel, Council, to The Honorable Christopher Cox, Chairman, Securities and Exchange Commission (Jan. 25, 2008), <http://www.cii.org/UserFiles/file/resource%20center/correspondence/01-25-08%20Disclosure%20of%20Reasons%20for%20Auditor%20Departure%20%28SEC%29%20%28final%29.pdf>.

³ A description of Council general members is available at http://www.cii.org/about/council_members.

⁴ Council, Corporate Governance Policies, Disclosure of Reasons Behind Auditor Changes ¶ 2.10g (updated Oct. 7, 2008), <http://www.cii.org/UserFiles/file/council%20policies/CII%20Corp%20Gov%20Policies%2010-7-08.pdf>.

On January 30, 2008, we received a letter from Nancy M. Morris, Secretary, of the SEC (“Morris Letter”) indicating that the January Letter had been received, assigned a file number, and “referred to the appropriate division of the Commission.”⁵ The Morris Letter also indicated that “[t]his office will notify you of any pertinent action taken by the Commission.”⁶

More than eight months have passed since we received the Morris Letter. We have yet to receive any notification about the status of our request.

We note that from the date we hand delivered the January Letter, the SEC has issued more than twenty proposed new rules⁷ and more than twenty final rules.⁸ None of those proposals or final rules, however, has the same level of investor support as our policy to require disclosure of the reasons behind auditor changes.

We also note that support for our policy extends far beyond the investor community. That fact is perhaps best demonstrated by the inclusion of the following recommendation in the recently issued Final Report of the U.S. Department of the Treasury’s Advisory Committee (“Advisory Committee”) on the Auditing Profession:

Recommendation 4. Urge the SEC to amend Form 8-K disclosure requirements to characterize appropriately and report every public company auditor change and to require auditing firms to notify the PCAOB of any premature engagement partner changes on public company audit clients.⁹

The basis for the recommendation of the Advisory Committee—consistent with the basis for our analogous policy—includes the following analysis:

Testimony and commentary viewed the lack of transparency surrounding auditor changes as detrimental to investor confidence in financial reporting. Testimony and commentary suggested greater transparency regarding auditor changes would compel audit committees to more closely evaluate auditor selection decisions and lead to greater competition in the audit market.

The Committee believes that explicitly stating the reason for an auditor change will assist investors in determining the quality of financial reporting and subsequent investment decisions.¹⁰

⁵ Letter from Nancy M. Morris, Secretary, Office of the Secretary, United States Securities and Exchange Commission, to Jeff Mahoney, Esq., General Counsel, Council (Jan. 30, 2008),

http://www.cii.org/UserFiles/file/resource%20center/correspondence/2008/SEC_Rulemaking_Petition_January'08.PDF

⁶ *Id.*

⁷ SEC Proposed Rules, <http://www.sec.gov/rules/proposed.shtml> (last visited Oct. 20, 2008).

⁸ SEC Final Rules, <http://www.sec.gov/rules/final.shtml> (last visited Oct. 20, 2008).

⁹ The U.S. Department of the Treasury, Final Report, Advisory Committee on the Auditing Profession VII:11 (Oct. 2008), <http://www.treas.gov/offices/domestic-finance/acap/docs/final-report.pdf>.

¹⁰ *Id.* at VII:11-12 (footnotes omitted).

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We understand and appreciate that in the near term the ongoing financial crisis should be the focus of the SEC's activities. We, however, would respectfully request that any future SEC rulemaking that is not directly related to the financial crisis should focus on issues, like the Council's policy on disclosure of the reason behind auditor changes, that (1) have been explicitly requested by investors, and (2) have the clear support of the investor community.

As always, we stand ready to assist you in any way we can, including providing you with additional input on this important investor issue. Please feel free to contact me at jeff@cii.org or at 202.261.7081.

Sincerely,

A handwritten signature in cursive script that reads "Jeff Mahoney".

Jeff Mahoney
General Counsel

cc: Commissioner Luis A. Aguilar
Commissioner Kathleen L. Casey
Commissioner Troy A. Paredes
Commissioner Elisse B. Walter
Director, Division of Corporation Finance, John W. White
Chief Accountant, Office of Chief Accountant, Conrad Hewitt