



Via Facsimile

May 10, 2010

The Honorable Harry Reid
Majority Leader
United States Senate
S-221 The Capitol
Washington, DC 20510-7020

The Honorable Mitchell McConnell
Minority Leader
United States Senate
S-230 The Capitol
Washington, DC 20510-7010

The Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510-6075

The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510-6075

Dear Messrs. Majority Leader, Minority Leader, Chairman, and Ranking Member:

I am writing on behalf of the Council of Institutional Investors (“Council”), a non-profit association of public, union and corporate pension funds with combined assets that exceed three trillion dollars.¹ Member funds are major long-term investors with a duty to protect the retirement savings of millions of American workers across the country. Significantly affected by the financial crisis, Council members have a deep, abiding interest in strong regulatory reform that meets the needs and demands of long-term investors.

As the provisions of S. 3217, the *Restoring American Financial Stability Act of 2010* (“Act”), continue to be debated on the floor of the United States (“U.S.”) Senate,² the Council would like to reiterate our strong support for Sec. 991 of the Act providing for self-funding of the U.S. Securities and Exchange Commission (“SEC” or “Commission”).³

As you aware, the SEC was formed in the midst of the Great Depression to address one of the root causes of that crisis – unregulated capital markets. Today, the Commission’s mission remains, in our view, as critical to the functioning of our economy and advancement of the public interest as it was then; perhaps even more so.⁴

¹ For more information about the Council of Institutional Investors and our members, please see our website at www.cii.org.

² *Restoring American Financial Stability Act of 2010*, S. 3217, 111th Cong. (Apr. 2010), http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s3217as.txt.pdf.

³ See, e.g., Letter from Jonathan D. Urick, Analyst, Council of Institutional Investors, to The Honorable Daniel K. Inouye, Chairman, Committee on Appropriations, et al., 1 (Jan. 21, 2010), www.cii.org/UserFiles/file/resource%20center/correspondence/2010/1-21-10%20SEC%20Funding%20Letter%20to%20Senate%20Appropriations%20Cmte.pdf (Letter urging the “Committee on Appropriations to support a stable self-funding mechanism for the Commission”).

⁴ See, e.g., Joel Seligman, Op-Ed., *Let the S.E.C. Help Itself*, N.Y. Times, Feb. 26, 2010, at 1, www.nytimes.com/2010/02/27/opinion/27Seligman.html (“No other single reform would accomplish more than allowing the Securities and Exchange Commission – the federal agency responsible for full disclosure of corporate information and the regulation of stock exchanges, broker-dealers and investment advisers – to fund itself through corporate fees”).

The SEC's funding has simply not kept pace with the explosive growth of the U.S. securities markets over the past two decades. For example, since 2003 trading volume in the markets has more than doubled.⁵ In contrast, between just 2004 and 2007 the SEC's enforcement and examination programs lost ten percent of their professionals.⁶

In order to safeguard investors and the capital markets, the Council believes that the SEC must have stable, independent, long-term self-funding that meets investors needs.⁷ A self-funding mechanism, like that contained in Sec. 991 of the Act, would ensure that the Commission has the necessary resources to hire staff with deep knowledge of the markets and securities, develop a robust technology program, and address the regulatory imperatives resulting from rapid market changes and financial innovation.⁸ Self-funding would also allow the Commission to engage in more systematic long-term planning.⁹

The SEC is one of the few financial regulatory bodies lacking a self-funding mechanism,¹⁰ yet, in our view, is the most important financial regulatory body for investors. As indicated, we believe that SEC self funding is in the best interests of those tens of millions of individuals investing in the U.S. capital markets in an effort to save for critical needs such as their retirement and their children's educations. It is also in the best interests of the hundreds of millions of individuals that are affected by activity in the capital markets, and by the activities of issuers, whether they invest or not.

Finally, regardless of the SEC's funding mechanism, the Council believes that Congressional oversight of the Commission remains critical. The U.S. Senate should continue to actively provide both general oversight of the SEC and advice and consent regarding nominees to lead the Commission.¹¹ The U.S. Senate should also continue to encourage vigorous SEC regulation and appropriate resource allocation to ensure that the Commission is addressing both the continuing and emerging systemic risks to our economy and society posed by the capital markets.¹² Importantly, none of the aforementioned Congressional oversight of the Commission would be undermined or diminished in any significant way by SEC self-funding.¹³

⁵ Mary L. Schapiro, *Speech by SEC Chairman: Statement Concerning Agency Self-Funding 2* (Apr. 15, 2010), www.sec.gov/news/speech/2010/spch041510mls.htm.

⁶ *Id.*

⁷ See, e.g., The Investors' Working Group, *U.S. Financial Regulatory Reform: The Investors' Perspective 9* (July 2009), [www.cii.org/UserFiles/file/resource%20center/investment%20issues/Investors'%20Working%20Group%20Report%20\(July%202009\).pdf](http://www.cii.org/UserFiles/file/resource%20center/investment%20issues/Investors'%20Working%20Group%20Report%20(July%202009).pdf) ("Regulators should have enhanced independence through stable, long-term funding that meets their needs").

⁸ *Id.* at 8 ("Structural and financial changes can also help strengthen regulatory agencies by making them more independent of the industries they supervise and allowing them to hire staff with deep knowledge of complex products and rapid financial innovation").

⁹ Mary L. Schapiro, *supra* note 5, at 2 ("It [self-funding] would enhance our long-term planning process, allowing the SEC to address the increasingly sophisticated technologies, products, and trading strategies adopted by the financial services industry").

¹⁰ See, e.g., Joel Seligman, *supra* note 4, at 1 (Commenting that "the commission should finance itself – much as the Federal Reserve and the Federal Deposit Insurance Corporation do today through fees on banks").

¹¹ See, e.g., The Investors' Working Group, *supra* note 7, at 9 ("Congress should be vigilant in exercising its general supervisory authority and thoughtfully carry out its obligation to provide advice and consent to ensure that nominees possess the resolve to regulate effectively").

¹² *Id.* at 9.

¹³ See, e.g., Joel Seligman, *supra* note 4, at 2 ("Nor would [self-funding] . . . undermine Congressional oversight. Like the Fed and the F.D.I.C., the commission would continue to report to Congressional committees and its officials would be subject to Senate confirmation and Congressional legislative direction").

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Thank you for your consideration of the Council's views on this important element of financial regulatory reform. If you should have any questions, please do not hesitate to contact me at (202) 261-7081 or jeff@cii.org, or Jonathan Urick at (202) 261-7096 or jonathan@cii.org.

Sincerely,

A handwritten signature in black ink that reads "Jeff Mahoney". The signature is written in a cursive, flowing style.

Jeff Mahoney
General Counsel
Council of Institutional Investors

CC: Members of the U.S. Senate (via email)