

June 16, 2010

The Honorable Steny H. Hoyer  
Majority Leader  
H-107, The Capitol  
Washington, D.C. 20515  
Via Fax: 202-225-4300

Dear Majority Leader Hoyer:

The Tech Council of Maryland (TCM), Maryland's largest technology association with over 500 members employing more than 250,000 people, is writing to voice support for Section 989G of the House Offer in providing a permanent exemption for companies with market caps of \$75 million from Section 404(b) of the Sarbanes-Oxley Act. During floor consideration of the House passed H.R. 4173, *Wall Street Reform and Consumer Protection Act of 2009*, 101 Democrats joined 170 of their Republican colleagues in support of Section 7606, an identical provision to Section 989G of the House offer, in providing a permanent exemption from Section 404(b) for smaller public companies. This would provide much-needed relief to smaller, public, biotechnology companies on the cutting edge of research and development.

Over the past thirty years, the U.S. biotech industry has helped America build an innovation-based economy and created high-value, high-wage U.S. jobs. These jobs pay, on average, 68 percent more than private sector jobs in general. In Maryland, the biotech industry has flourished over the years. However, small biotechnology companies face a number of difficulties in raising capital to finance the research and development of new and promising therapies, especially now during the current financial crisis. In 2008, capital raised from initial public offerings fell 97 percent compared to 2007, and secondary offerings fell 56 percent. Total capital raised by the biotechnology industry in 2008 fell by 55 percent compared to 2007.

Without a permanent exemption from Section 404(b), the smallest biotech companies will be forced to absorb outsized audit and compliance costs – diverting revenue that could otherwise go to developing life-saving therapies. Currently, 41% of active publicly traded biotech companies fall under \$75 million in market capitalization. This provision would both provide relief to small biotech companies, as well as ensure that these companies can continue to focus their cash resources on developing the next generation of therapies to treat diseases affecting tens of millions of Americans.

We respectfully urge you to accept the House Offer to permanently exempt smaller companies from Section 404(b) during the Conference Committee's mark-up of H.R. 4173. A permanent exemption will give smaller companies the certainty they need to access the public markets. The absence of a permanent exemption will result in new compliance costs being imposed on smaller public companies in 2010.

TCM appreciates your leadership and we look forward to working with you on this important issue.

Sincerely,



Renée M. Winsky  
Chief Executive Officer