BOARD OF DIRECTORS

NCPA President and CEO
James H. Amos, Jr.

NCPA Executive Director
and Vice Chairman
Allen B. West

NCPA Chairman
Mr. Steve Ivy
Heritage Auctions

Mr. Larry Wedekind
IntegraNet

Mr. Michael L. Whalen
Heart of America Group

EMERITUS
BOARD OF DIRECTORS

Ms. Virginia James
Mr. Don A. Buchholz
Mr. Harlan Crow
Hon. Pete du Pont
Mr. Jere W. Thompson

February 10, 2017

The Honorable Michael S. Piwowar
Acting Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-0213

RE: Reconsideration of Conflict Minerals Rule Implementation

Dear Chairman Piwowar,

On behalf of the National Center for Policy Analysis (NCPA), I am submitting this statement regarding the reconsideration of the conflict minerals rule implementation.

The conflict minerals statute is a microcosm of the Dodd-Frank Act: a costly regulatory monster which not only failed to accomplish its intended purpose, but hurt those it was supposed to help.

The Democratic Republic of the Congo (DRC), a former Belgian colony and second largest country in Africa, experienced a brutal, decade-long civil war during the 1990s that claimed millions of lives. The newly established DRC government told a handful of U.S. officials in 2007 that conflict lingered in the east because rebels funded their operations through the sale of minerals. That conversation gave birth to the idea of regulating conflict minerals. Legislation was introduced in Congress to force publicly-owned U.S. businesses to inspect their supply chains and declare the use of minerals sourced from the DRC, namely tungsten, tin, tantalum and gold. These minerals can be found in an assortment of products like clothing, electronics and household goods. Advocacy groups and Hollywood elites pressured Congress to use Dodd-Frank as the vehicle to pass the stalled legislation. In the end, the U.S. response to a domestic mortgage crisis included this bizarre regulation aimed at the Congolese rebels and conflict minerals.

The law initially compelled publicly traded U.S. businesses to declare themselves "conflict-free" until the D.C. Circuit Court of Appeals overturned the clause as a violation of the First Amendment. Now the conflict minerals provision orders companies to merely "disclose" to the Securities and Exchange Commission

(SEC) if they use minerals sourced from DRC. There are no real penalties nor consequences, as long as a company explores and reports back to the federal government.

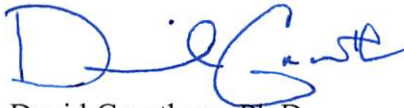
Businesses of all sizes now conduct extensive and costly supply-chain reviews to comply with the Dodd-Frank conflict mineral regulation. Nearly 90 percent of affected businesses have hired at least one full-time employee, while others have had to hire upwards of five, just to comply with this largely toothless regulation. This provision has created a particularly burdensome impact on medium-to-small-size companies, the backbone of the American economy.

Meanwhile, the regulation engineered a *de facto* boycott on an already impoverished nation when companies fled to avoid compliance costs or the stigma of conflict minerals. Unfortunately, a large percentage of mineral operations came from Congolese artisan miners outside rebel control. This exodus of capital and business drove thousands deeper into poverty. Many families have since turned to unreliable subsistence farming. Others have joined militias for quick cash. Rebels, meanwhile, substitute conflict minerals for other sellable resources. Conflict continues in the Congo.

Bringing awareness to an issue is far more reflective of a free society than using the state to arbitrarily coerce citizens and businesses into adopting a *cause célébre* regulation. Indeed, the power of the U.S. government to compel at random – other areas of conflict in Africa have no such mineral regulation – is an unwise and ambiguous use of government power.

Your leadership in this matter is much appreciated. Thank you for your consideration.

Sincerely,



David Grantham, Ph.D.
Senior Fellow
National Center for Policy Analysis