

# United States Senate

WASHINGTON, D.C. 20510

CHAIRMAN'S OFFICE  
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SEC. & EXCH. COMM.

The Honorable John S. R. Shad  
Chairman  
Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, D.C. 20549

Dear John:

As you are well aware, corporate strategies used to prosecute successful tender offers and defend against these attempts at acquisition have been, and will continue to be, the subject of congressional investigation. Corporate takeovers is an extraordinarily complex and contentious subject. Piecemeal legislation eliminating only certain perceived abuses may result in inadvertent consequences that retard the takeover market. However, congressional inaction may continue management's paralysis because of the threat of hostile takeovers and the use of defensive tactics that utilize shareholder resources in an irresponsible manner.

As Chairman of the Securities Subcommittee of the Senate Banking Committee, I intend to hold comprehensive hearings in the 99th Congress on tender offer tactics. I am entering this subject with an open mind and have not concluded that legislation is absolutely required.

Proposals for tender offer reform have been presented to me. I would appreciate the Commission's comments of the impact of the following proposals on the takeover market, State corporation law, capital formation, and management entrenchment:

1) A corporate charter amendment that limits any holder (or group) with 5% or more, but less than 90%, of the common stock to only 5% of the voting power for a period of three years after reaching the 5% level. To this would be added a further charter amendment that would require management to submit to its shareholders, and take no action to frustrate, any unconditional cash offer for all the stock of the corporation at twice the current market value.

2) Statutory changes requiring any individual (or group) acquiring 20% of the outstanding common stock of a company to make an identical offer for all the outstanding common stock.

Coupled with this statutory change would be an extension of the minimum offering period from 20 business days to 40 calendar days.

Your comments on these proposals would be of great assistance to me as review of the tender offer process moves forward. If I can be of any assistance, please contact me directly, or have your staff contact Robin Salomon of my staff at 224-6542.

Sincerely,



Alfonse D'Amato  
United States Senator

AD:rsr