



OFFICE OF
THE CHAIRMAN

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

November 19, 1987

The Honorable George Bush
President
United States Senate
S-212 Capitol Building
Washington, D.C. 20510

Dear President Bush:

The Securities and Exchange Commission is pleased to transmit the attached legislative proposal to amend the Trust Indenture Act of 1939 ("Act"). If enacted, the proposal will comprehensively modernize the Act to accommodate its requirements to the needs of contemporary financing and institutional trust practice without undermining the purposes of the Act. The proposal also would assure the Act's adaptability to future developments in the public market for debt securities.

The Act regulates the public issuance of debt securities and the relationships among the security holders, the indenture trustee and the obligor. Since its adoption, there have been significant changes in the markets, with respect to both the types of debt securities offered to the public and the techniques for their sale. As a result, aspects of the Act have become administratively or substantively obsolete. The Commission's proposal would modernize the Act while continuing to mandate necessary protections for debt holders.

The proposal will accomplish these objectives by amending the Act in five areas. The Act as amended will make inclusion of mandatory indenture terms self-executing through operation of law, a change that will provide greater assurance that such provisions are part of every qualified indenture and remove substantial administrative burdens from the Commission's staff and from persons subject to the Act. Amended section 304(d) will broaden the Commission's exemptive power to allow for variation from the Act's requirements in appropriate

circumstances. This broadened exemptive power will permit the Commission to adjust the Act's requirements to particular needs when their application would impose undue restrictions and would be unnecessary to serve the Act's purposes. Through this power, the adaptability of the Act to future developments will be assured. In recognition of the character of indenture trustee' legal duties and the realities of trust practice, amended section 310(b) will make technical conflicts of interest irrelevant to a trustee's eligibility prior to default. The amendment will remove inhibitions on trustees' legitimate business activities without prejudice to the interests of holders under qualified indentures. To promote the internationalization of public securities markets, amended section 310(a) will permit the Commission to allow foreign trustees under qualified indentures in the specified circumstances. Finally, the proposal effects miscellaneous technical changes to the Act.

The benefits of the amendments will be automatically applicable to indentures already qualified under the Act. The Commission believes that the alteration will result in no deprivation of a material right of indenture security holders and will not be prejudicial to the interests of those holders. Higher standards of conduct may still be contracted for because of the operation of present section 318(b).

The Commission believes that enactment of the Trust Indenture Amendments Act of 1987 would assure that all qualified indentures provide all the protections of the Act, simplify compliance with the Act, and ease its administration. The Commission also believes that enactment of the proposal would remove restrictions on persons subject to the Act based in assumptions that are unjustified in today's public market for debt securities and that this may be accomplished without any loss of investor protection. For these reasons, the Commission urges the Congress to enact the Trust Indenture Reform Act of 1987.

The views expressed here and in the accompanying material are those of the Commission and do not necessarily express the views of the President. These materials are being submitted simultaneously to the Office of Management

and Budget ("OMB"). We will inform you of any advice received from OMB concerning the relationship of these materials to the program of administration.

Sincerely yours,



David S. Ruder
Chairman

cc: The Honorable James Wright
The Honorable William Proxmire
The Honorable John Dingell
The Honorable Donald W. Riegle
The Honorable Jake Garn
The Honorable William Armstrong
The Honorable Edward J. Markey
The Honorable Norman F. Lent
The Honorable Matthew J. Rinaldo
Mr. James Frey

Attachments

- A. The Bill
- B. Section-by-Section Analysis
- C. Memorandum in Support
- D. Compilation of Changes