

James C. Greenwood
President & CEO

March 14, 2007

The Honorable Tom Feeney
Member of Congress
323 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Feeney:

On behalf of the Biotechnology Industry Organization (BIO) and its 1,100 biotechnology companies, academic institutions, state biotechnology centers and related organizations, I am writing to thank you for your leadership in introducing H.R. 1508, the “Compete Act of 2007.” This legislation will substantially improve current law regarding internal controls over financial reporting in public companies. We are particularly supportive of provisions in the bill that reduce the burden of compliance with Section 404 of the Sarbanes-Oxley Act for smaller public companies.

To date, the implementation of Section 404 has imposed large and unnecessary costs on smaller public companies, with little or no corresponding benefit to investors. This is especially true with respect to smaller biotechnology companies that have limited resources to deal with the high implementation costs related to Section 404. For instance, under current law, a small biotech company with \$150 million in market capitalization with no product revenues often pays upwards of \$1 million in added compliance costs attributable to Section 404. This means redirecting funds from research and development – delaying cutting-edge research into the therapies and cures of tomorrow – in order to cover the costs of auditing fees.

BIO supports a risk-based approach that provides Section 404 relief based on a “revenue filter,” as provided in your legislation. Such an approach is critical for smaller public biotechnology companies because these companies generally have very low product revenues relative to their market capitalizations. Under your bill, companies with product revenue of less than \$125 million would be allowed to voluntarily opt-out of the burdensome and cost-prohibitive internal control requirements of Section 404. This approach astutely recognizes that product revenues drive the complexity of corporate structures and the corresponding need for appropriate controls to protect investors against events that may lead to changes in financial reports. Further, this approach will begin to address the disproportionate cost burdens of section 404 compliance that continue to hamper smaller companies’ ability to invest in research and development, gain access to public capital markets, and remain competitive.



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The “Compete Act of 2007” recognizes that the Section 404 internal control requirements should not create unnecessary costs that hamper American competitiveness without accompanying benefits to investors and businesses. The introduction of this bill is an important first step in the legislative process. We appreciate your willingness to work with us to address many of our concerns and we look forward to working with you to make additional modifications, if necessary, as this effort proceeds.

Again, I applaud you for your legislative efforts, and I look forward to working with you and your staff on this very important matter.

Sincerely,


James C. Greenwood
President & CEO
Biotechnology Industry Organization