

**Statement of Chairwoman Sue Kelly**  
**House Committee on Financial Services**  
**Subcommittee on Oversight and Investigations**  
**“Encouraging Small Business Growth and Access to Capital”**  
**September 23, 2004**

This morning the Subcommittee on Oversight and Investigations convenes to continue its review of efforts to encourage small business growth and access to capital.

Small business drives our economy and creates jobs for millions of Americans. In fact, small businesses currently generate nearly three-quarters of the net new jobs per year and employ approximately half of the private sector workforce.

Capital is the lifeblood of small business, and the efficient access to capital is a crucial ingredient to a strong, growing economy. We must ensure that our small businesses have access to capital and that the current regulatory scheme encourages future growth and development.

Available data shows that small businesses are recovering from the downturn in the economy begun in 2001 in no small part due to the easing of their access to capital. Banks began relaxing lending standards in late 2003 for the first time since 1998 and, in turn, demand for small business loans has recently increased. In terms of our equities markets, over 100 companies have undertaken initial public offerings so far this year, making it the best year for new offerings since 2000. Despite these promising numbers, there are still significant regulatory hurdles discouraging small business capital formation.

Last Congress, the Subcommittee on Oversight and Investigations held a hearing entitled “The SEC’s role in Capital Formation: Help or Hindrance?”. In this hearing, the subcommittee heard from a number of witnesses who contended that the Securities and Exchange Commission (SEC) has simply not kept pace with the needs of small businesses, despite its best efforts.

Since that time, Congress has passed, and the President has signed, important legislation, known as ‘Sarbanes-Oxley’, to improve auditing standards, disclosure rules and corporate governance. While investors in small companies expect, and deserve, the same protections as those in larger companies, this law places a renewed focus on the need to review the current regulatory framework to ensure that small businesses are able to develop and access capital. There must be concerted effort to modernize our federal securities regulatory framework to ensure we are protecting investors and allowing small businesses to grow.

Today, we will review the steps that our government is taking to address the specific needs of small businesses. In 1996, under the National Securities Markets Improvement Act, Congress was very clear that the SEC ensure “competition, efficiency and capital formation” in its rulemaking. This law also granted the SEC general exemptive authority to ease regulatory burdens and to meet the needs of all businesses – large and small – trying to access the capital markets. Regrettably, the Commission has not been as proactive in exercising this authority to support the needs of small business.

It is time to embrace the advantages that new technology and the Internet have brought to our society and could bring to our government agencies. While the SEC has tried to simplify registration and other regulations for small businesses, these tasks remain extremely daunting for average small business owner. There is a tremendous amount cost and effort that a public company must incur to access the capital markets and comply with federal securities laws. In their pursuit to protect investors, the SEC must also make it a priority to stride for more efficient regulations. The current

regulatory regime must keep pace with the market and the needs of small businesses, otherwise investor protections will also be undermined.

The Commission's inaction has motivated me to draft with my colleague from New York, Representative Nydia Velazquez, the "Increased Capital Access for Growing Business Act" (H.R. 3170). This legislation removes certain obsolete investment limitations on business development companies (BDCs), which were created in 1980 by Congress to encourage investment in small, developing, and financially troubled businesses. By simply modernizing securities laws, this legislation would allow BDCs to provide significant resources to small businesses, as originally intended by Congress.

Since the Commission's position on the legislation has been frustratingly unclear, I urge the SEC to take this opportunity to express their support for this legislation that would have a tremendous impact on the ability of small businesses to access capital. The legislation, which was first introduced last Congress, passed the House unanimously and awaits Senate consideration. After working with the SEC on this legislation for several years, it is time for the Commission to give a public endorsement of this bill and help small businesses by moving the process along in the Senate.

I thank the witnesses for their appearance before the committee to address these important issues. It is my hope that we make progress that will enable small businesses to devote their energies towards their customers and not outdated and inefficient requirements that no longer reflect the realities of our new economy.