RAMTRON
International Corporation

1850 Ramtron Drive
Colorado Springs, CO 80921
www.ramtron.com

March 29, 2006

Via e-mail: rule-comments@sec.gov

Mr. Jonathan G. Katz
Committee Management Officer
Securities and Exchange Commission
Advisory Committee on Smaller Public Companies
100 F Street, NE
Washington, DC 20549-0609

Re: File No. 265-23
Draft of Final Report of Advisory Committee on Smaller Public Companies

Mr. Katz:

This letter is provided to express support of both the efforts of the Securities and Exchange Commission's (the "Commission") Advisory Committee on Smaller Public Companies (the "Committee") and its recommendations set forth in the Draft of Final Report (the "Report"). In addition, I respectfully submit the following comments to the Committee which serve to (i) highlight our own experiences complying with the Sarbanes-Oxley Act of 2002 ("SOX"), (ii) urge the Committee to include in its final Report the recommendations pertaining to internal controls, and (iii) suggest revisions to the Committee's recommendations relating to internal controls.

We support the recommendation of the Committee, which has proposed an exemption from SOX 404 for companies with less than $128 million in market cap and revenues under $125 million. Even with this exemption recommendation, SOX 404 would still apply to over 90% of equity market capitalization. Even with these minor changes to solve major problems, the spirit of Section 404 will not be diminished as important reforms to rebuild investor confidence.

As evidence by recent actions by the Commission, when the Commission publicized rules for issuers pursuant to Section 404 under the reporting requirements of the Exchange Act, the Commission possesses the authority to provide relief from provisions within the Sarbanes-Oxley Act under Section 36(a) of the Securities and Exchange Act of 1934 and Section 3(a) of the Sarbanes-Oxley Act. Section 36(a) of the Sarbanes-Oxley Act grants the Commission broad authority to adopt rules and regulations under the Act. It is apparent, the Commission has the authority to adopt and fine tune the rules and regulations, as may be necessary or appropriate in the public interest or for the protection of investors" under Section 404 of the Sarbanes-Oxley Act.

Experience with SOX Compliance

At Ramtron International Corporation ("Ramtron"), we have found that the expense and burden of complying with SOX adversely effects shareholder value. As background, Ramtron designs, develops, manufactures and markets semiconductor memory devices in the United States with offices throughout the world. We are based in Colorado and have a market capitalization of approximately $52 million. Ramtron's revenue for the years ended December 31, 2005 and 2004 was approximately $34.4 million and $57.8 million, respectively. Our net loss in 2005 was approximately $6.5 million and our net income in 2004 was $3.6 million.

Ramtron's first year to comply with SOX was 2004, and our efforts to comply with SOX have come at a high price. Our cost for SOX compliance was 1% of revenue in 2004. We estimate that in 2004 we ultimately expended $280,000 on our audit and SOX testing and $300,000 on in-house and contract resources to prepare for SOX compliance, such amount includes the one time costs of (i) retooling our financial and accounting processes, (ii) charting our control procedures, and (iii) installing new accounting software.

Despite our original expectation of decreased audit expenses in our second year of SOX compliance, we spent approximately $335,000 on our audit and SOX testing and $100,000 on in-house resources to prepare for our SOX compliance in 2005. Our audit expense for SOX compliance increased 20% year-over-year after the one time costs incurred in 2004 are removed. In 2005, our cost for SOX compliance was 1.3% of revenue. As a smaller public company, SOX directly contributed to a loss in value for Ramtron's shareholders.

In addition, the expenses described above fail to capture the intangible costs imposed by SOX. First, Ramtron was required to bolster its finance and accounting staff in order to properly implement SOX. Second, SOX required Ramtron's corporate staff to "scramble" to meet unrealistic deadlines. Third, a marketplace focus on SOX compliance severely diverted the efforts of Ramtron's directors and executive management from strategic and operational matters. In short, SOX compliance has had and continues to have an intangible effect, which further reduces shareholder value.

However, our experience with SOX compliance is not representative of all smaller companies. Not all companies will be able to effectively manage their increased SOX compliance expenses.[1] SOX compliance expenses remain a heavy weight on shareholder value for smaller public companies. In effect, SOX functions as a tax on smaller public companies - in our case approximately 8% of net income plus the intangible effects mentioned above.

1 "When asked about year-two costs, 85 percent of respondents said they expect non-auditor expenditures to decrease (by an average of 39 percent), and 68 percent said they believe the costs of their primary auditor will also decrease (by an average of 25 percent)." Press Release: "Sarbanes-Oxley Compliance Costs Exceed Estimates," Financial Executives International (Mar. 21, 2005).

In brief, Ramtron's experience, as a smaller public company, has been that the costs of complying with SOX have both far exceeded the Commission's original estimates and harmed shareholder value.[2]

Recommendations Pertaining to Internal Controls

We urge the Committee to include in its final Report the recommendations pertaining to internal controls. The majority of the testimony and comment letters received by the Committee to date support these recommendations. Further, we cite the following principal reasons for inclusion of the internal control recommendations.

First, the costs of SOX compliance have been disproportionately borne by smaller public companies that are least able to pay. According to a survey recently conducted by Financial Executives International, public companies have expended large sums to meet the requirements set out in SOX Section 404.[3] However, the survey estimates that smaller public companies with revenue of $100 million or less pay an average of $800,000 for all internal and external costs of complying with SOX, while companies with revenue of $5 billion or more face an average fee of $8 million. As a percentage of revenue, larger public companies are expending 0.16% of revenue on SOX compliance expenses, while smaller public companies are expending as much as 0.80% of revenue on SOX compliance expenses - nearly <u>five times</u> as much.

Second, SOX Section 404 has been applied with equal rigor to small and large public companies in a "one size fits all" mentality. While smaller public companies (market capitalizations of less than $700 million) represent nearly 80% of all U.S. public companies, such companies only account for 6% of the total market capitalization of all U.S. public companies.[4] Accordingly, while SOX was implemented to address problems related to large-cap companies (*e.g.*, Enron, Tyco, Wolrdcom, etc.), as a practical matter SOX affects many more smaller public companies than large-cap companies.

Third, it should be noted that the proposed exemptions do not exempt smaller public companies from good corporate governance. Such companies qualifying for an exemption from SOX Section 404 would still be required to comply with other securities laws and regulations, as well as the remaining provisions of SOX. In addition, smaller public companies could decide

---

2 *See* Final Rule: Management's Reports on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports, Release Nos. 33-8238; 34-47986; IC-26068; File Nos. S7-40-02; S7-06-03 (June 5, 2003) (estimating the aggregate annual costs of implementing SOX Section 404(a) to be approximately $91,000 per company).

3 *See* Michael Kinsman, "Sarbanes-Oxley Act boosts companies' accounting costs, auditors' workload," *San Diego Union Tribune*, Feb. 13, 2005 (citing a report by Financial Executives International).

4 *See* "Report of the Size Subcommittee to the Advisory Committee on Smaller Public Companies" (Aug. 10, 2005), p. 32 (citing the Commission's Office of Economic Analysis "Background Statistics: Market Capitalization of Public Companies").

not to take advantage of the exemptive relief. This in turn would allow the financial markets to determine whether there is benefit for smaller public companies to comply with SOX Section 404.

To summarize, we believe that the Committee's recommendations pertaining to internal controls should be included in its final Report. These recommendations will serve as an important step in alleviating the heavy burden of SOX compliance which has been improperly applied to smaller public companies.

Suggested Revision to the Report

Lastly, we propose that the Committee delete the following phrase from its Recommendations III.P.1. and III.P.2. in its final Report:

> ***"Unless and until a framework for assessing internal control over financial reporting for such companies is developed that recognize their characteristics and needs,"***

The rationale for this suggested revision is two-fold. First, we recommend that the Committee adopt a real exemption which will provide issuers and their auditors with clarity and certainty. Second, this revision is consistent with the recommendations discussed during the Committee's December 2005 meeting.

In conclusion, we strongly support the efforts of the Committee and its recommendations in the Report to highlight the problematic application of SOX Section 404 to large and small public companies in equal fashion. Further, we hope that the suggested revisions to the recommendations relating to internal controls will serve to strengthen the Committee's efforts.

Thank you in advance for your consideration of these comments.

Sincerely,

Eric A. Balzer
Director and Chief Financial Officer