

**STATEMENT OF COLLEEN M. KELLEY
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION**

**before the
Committee on Financial Services
U.S. House of Representatives
March, 6, 2003**

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Good morning Chairman Baker, Ranking Member Kanjorski and members of the Subcommittee on Capital Markets. My name is Colleen M. Kelley and I am the National President of the National Treasury Employees Union (NTEU). NTEU is the exclusive representative of the 2,000 bargaining unit employees at the Securities and Exchange Commission (SEC), including the accountants, examiners and economists. I am pleased and honored to have been invited to testify today on this important legislation. As a professional accountant myself, these employees and their working conditions are near and dear to my heart. I want to note that with me today is Mike Clampitt, President of NTEU Chapter 293, the local union at SEC. Mike is an extraordinary employee leader at SEC and one of the most capable officers of NTEU.

Mr. Chairman, you know as well as I do of the serious staffing and morale problems at the Securities and Exchange Commission. For all too many years, this problem went unaddressed. Pay and benefits were grossly substandard, working conditions were miserable and morale was shockingly low. While pay and benefits were the leading reason for this crisis, a GAO study found that it was not the only reason. The study also cited SEC's organizational culture and human capital policies as reasons for poor employee retention. The result was predictable. From 1998 to 2000, one third of

the professional staff left the SEC to find work elsewhere.

In fairness, I do not think we can criticize the employees during that period for making the decision to leave the SEC for employment elsewhere. They took the rational course of action in a bad situation. But I believe we must hold in great esteem those employees who, rather than jumping ship, chose to band together and make an effort to improve pay, benefits, working conditions and morale at SEC. The founders and organizers of NTEU Chapter 293 are owed a debt of gratitude for their leadership and vision. They said rather than flee the SEC, let us work together and work with management to make conditions better at SEC and make this agency work for its employees, the investors and the public interest. They took on the serious tasks of improving morale and working conditions at SEC. They worked with you, Chairman Oxley, for the passage of the SEC Pay Parity legislation. They have asked Congress for new funding to implement this legislation and hire a sufficient number of co-workers to share the increased duties of the SEC and they have given employees a voice in the workplace and a means to redress issues and concerns.

None of these jobs are finished. While, under the leadership of this Committee, Pay Parity authorizing legislation has been passed by Congress, we still are in need of full funding by Congress and then full implementation of pay and benefits by SEC management. The need for increased staffing is beginning to be addressed with increased funding last year and hopefully a much greater appropriation when Congress finishes the

FY04 Commerce/Justice/State Appropriation. A newly negotiated union contract has given employees confidence that they will be treated fairly on the job.

Mr. Chairman, I am very optimistic that, working together with our partners in SEC management, we will soon begin to see great improvements at SEC. I especially applaud the NTEU members who work at SEC. SEC employees have been exceedingly patient for the day when they can see the light at the end of the tunnel. Their loyalty and commitment deserves commendation. This Committee has also been most diligent in its attention to SEC personnel matters and I thank the Committee for that.

The additional staff being hired at SEC is urgently needed. All who care about the effectiveness of this agency want to see quality candidates hired as quickly as possible. In discussions with your staff, the minority, and SEC management, I think all interested parties are substantially together on this. Let me offer the Committee some observations on how to best approach this matter, based not only on my many years of experience on federal personnel matters but on my observations and interaction with our members at SEC. Hopefully, I can identify an improved route to get to the point that is intended in this legislation.

I believe, Mr. Chairman, that the goals of this proposal can be fully realized without taking away competitive service status from the accountants, economists and examiners at the SEC. The reason I believe we must preserve the competitive service status for these employees is that it provides important advantages and protections for the

employees once hired. Dropping these provisions will put SEC at a hiring disadvantage with regard to other federal agencies. Let me outline these items.

For one, keeping competitive service status for these employees is important when applying for positions elsewhere in the federal government. Without it, employees can not count their years of experience at SEC when applying for other government jobs. One of the arguments for pay parity is that the disparity in pay between the SEC and other FIRREA agencies meant that SEC management lost out on the advantage of an exchange of employees among FIRREA agencies. The argument was that such movement of employees was a benefit to the development of experienced, well-rounded professionals. Lacking competitive service status, SEC employees would be at a disadvantage when seeking jobs at FDIC, Treasury or other agencies, resulting in a large recruitment impediment. I also understand that agencies that have had employees moved to excepted service at the agency's request have later regretted this change for this very reason.

Second, excepted service employees have a two year probationary period rather than one year. This is a significant amount of time for professionals that typically come to the SEC with considerable experience in their field. While on probation, such employees can be immediately dismissed or disciplined with very limited rights to challenge or appeal.

Competitive service status is also important for "bump and retreat" rights. I know

a Reduction in Force (RIF) at SEC is the last thing on anyone's mind right now but we do not know the path of the future. This is another important right I think could be preserved without any harm to the real goals in this legislation.

Lastly, I believe it is very important that in granting direct hiring authority to SEC, it should be directed to first level positions. Obviously, employee morale would be severely and negatively effected if new hires were brought in at higher graded positions that qualified, existing employees who not given the chance to be placed in these positions. I think we can resolve this point with discussions and agreements between labor and management.

I am convinced that maintaining the competitive service status of SEC accountants, examiners and economists makes these positions more attractive and would draw a higher caliber of applicants, particularly since people working in these crafts would enjoy competitive service status at other FIRREA agencies, which compete with SEC for the best and brightest.

I would suggest, Mr. Chairman, that the better approach would be to keep SEC accountants, examiners and economists in the competitive service, but to look at granting SEC the hiring flexibilities it needs independent of a change in status for the employees. I would suggest that this authority be temporary, given that the motivation for the flexibilities is the current need to staff up SEC and not an on-going growth of these proportions year after year. I would also suggest that in granting the SEC hiring

flexibilities, such legislation ask that SEC management report back to the Financial Services Committee in each of the years they have this authority. These reports would be helpful to the Committee in evaluating the usefulness of hiring flexibilities and might well be useful to other government agencies in search of solutions to similar problems.

In electing to focus on hiring flexibilities rather than a total change from Competitive Service to Excepted Service, a model you may wish to look at, Mr. Chairman, is the government wide provisions in the recent Homeland Security legislation that were developed by Senator George Voinovich. The Voinovich provisions, are now part of Public Law 107-296. One provision of the legislation gives the Office of Personnel Management (OPM) the right to grant direct hiring authority to an agency that faces a critical shortage of qualified applicants. The SEC may have concerns about the length of time required to go through an OPM approval process, I would urge this Committee to ensure that SEC follows pre-determined transparent and merit based guidelines for any direct hiring authority granted to SEC. I would also urge that any such authority be temporary and that the SEC provide this and other appropriate Congressional Committees with a report detailing the guidelines used, the numbers, types and grades of employees hired under the authority and the benefits and shortcoming associated with any change in policy.

Finally I want to again thank the Committee for the opportunity to testify this morning. I would be happy to answer any questions members of the Committee may have.