

January 27, 2012

The Honorable John Boehner
Speaker of the House of Representatives
1011 Longworth House Office Building
Washington, D.C. 20515

The Honorable Harry Reid
Senate Majority Leader
522 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Eric Cantor
House Majority Leader
303 Cannon House Office Building
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Minority Leader
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Nancy Pelosi
House Minority Leader
235 Cannon House Office Building
Washington, D.C. 20515

Re: Passage of H.R. 2167 and S. 1824

Dear House and Senate Leaders:

As a broad coalition with the shared interests of job creation and economic growth, we urge Congress to pass legislation to update the almost 50-year-old Securities and Exchange Commission (“SEC”) threshold that requires when a company must become a public reporting company. Our coalition includes companies that were recently an entrepreneur with an innovative idea to established companies that have been proven job creators for years. Included among our ranks are convenience stores, financial services firms, high-tech companies, life science companies, manufacturers, market-making companies, supermarkets, and trade associations. Congress is considering two bills that would update this threshold, and if passed, such legislation would provide a range of private companies with the flexibility and tools needed to operate efficiently while spurring economic growth and job creation.

Section 12(g)(1) of the Securities and Exchange Act of 1934 (the “Act”) requires a private company to become a public reporting company once the company exceeds 499 shareholders of record and has more than \$10 million in assets at the end of any fiscal year. This statutory threshold, often called the 500 Shareholder Rule, was enacted in 1964, and while the original asset threshold has been raised from \$1 million to \$10 million, the 500 shareholder threshold has remained the same for almost 50 years. In recent testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs (“Senate Banking Committee”), Meredith Cross, the Director of the SEC’s Division of Corporation Finance, stated, “Of course, securities markets have changed significantly since the enactment of Section 12(g) and the Commission’s adoption of the definition of ‘held of record.’” Given the changes in these markets, we believe it is time for Congress to update the shareholder threshold.

While the 500 Shareholder Rule affects our companies in different ways, the end result is that the rule, as it exists, limits job creation, economic growth, and the opportunity to provide equity-based compensation to our employees. In particular, this outdated 500 Shareholder Rule affects a company's ability to finance its growth and attract and retain employees. In the case of start-up companies, the 500 Shareholder Rule limits the pool of employees and investors that can invest in a company because there are only 499 spots for shareholders. Thus, the 500 Shareholder Rule acts as a disincentive for start-up companies, especially those facing longer timelines to going public, from offering equity-based compensation to new employees.

For more well-established companies that may not require capital from shareholders, but want to remain private, the 500 Shareholder Rule limits the ability to provide stock-based compensation, thereby limiting the ability of employees to share in a company's financial success and future. Christopher Gheysens, the Executive Vice President of Wawa, Inc. ("Wawa"), recently testified before the Senate Banking Committee that companies such as Wawa will, as a result of the 500 Shareholder Rule, be hindered in the ability to attract and retain a talented workforce. Moreover, if the 500 Shareholder Rule is not updated, Wawa and similar companies would likely be limited in their ability to add new employee-shareholders and could even be forced to eliminate some existing employee-shareholders from the ownership ranks.

To remedy this outdated and economically-limiting 500 Shareholder Rule, bipartisan legislation has been introduced in the House and Senate. Representatives David Schweikert (R-AZ) and Jim Himes (D-CT) introduced H.R. 2167 and Senators Tom Carper (D-DE) and Pat Toomey (R-PA) introduced S. 1824, both titled, "The Private Company Flexibility and Growth Act." The House Financial Services Committee approved H.R. 2167 by voice vote and the legislation awaits final action in the House. The Senate Banking Committee held two hearings in December to examine S. 1824, which now awaits further action in the Senate. Both H.R. 2167 and S. 1824 increase the shareholder threshold and exempt stock received as part of the employee's compensation plan from counting against the threshold.

At a time when the public believes Congress is hopelessly gridlocked, we are encouraged by the bipartisan support both bills have received. We urge you, the leaders of your respective bodies of Congress, to quickly take up and pass this legislation to modernize the 500 Shareholder Rule.

Sincerely yours,

Company/Organization Name

ALOM Technologies Corporation
Fremont, CA

Air Logistics Corporation
Monrovia, CA

Biotechnology Industry Organization/BIO
Washington, D.C.

Business Council of New York State
Albany, NY

Cives Corporation
Roswell, GA

Delaware Food Industry Council
Newark, DE

Food Industry Alliance of New York State, Inc.
Albany, NY

Food Marketing Institute
Arlington, VA

Gate Technologies
New York, NY

Giant Eagle
Pittsburgh, PA

Hartzell Industries, Inc.
Piqua, OH

Lord Corporation
Cary, NC

Marlin Steel Wire Products, LLC
Baltimore, MD

Mesirow Financial
Chicago, IL

Midmark Corporation
Versailles, OH

National Association of Convenience Stores
Alexandria, VA

National Association of Manufacturers
Washington, D.C.

New Jersey Food Council
Trenton, NJ

Pennsylvania Convenience Store Council
Camp Hill, PA

Pennsylvania Food Merchants Association
Camp Hill, PA

Greater Philadelphia Chamber of Commerce
Philadelphia, PA

QuikTrip Corporation
Tulsa, OK

Rochester Midland Corporation
Rochester, NY

SecondMarket
New York, NY

Sheetz, Inc.
Altoona, PA

U.S. Chamber of Commerce
Washington, D.C.

Wawa, Inc.
Wawa, PA

Wegmans Food Markets Inc.
Rochester, NY

W.L. Gore & Associates, Inc.
Newark, DE

cc: Members of the U.S. Senate Committee on Banking, Housing, & Urban Affairs
Members of the U.S. House Committee on Financial Services