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May 27, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable Mary Jo White  
Chair  
Securities and Exchange Commission  
2100 F Street, NE  
Washington, DC 20549

Dear Chair White:

The mission of the U.S. Securities and Exchange Commission (SEC) is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.<sup>1</sup> Events on May 14, 2015 suggest investors are not protected as well as they could be and markets are not as fair and orderly as they need to be. Several media outlets reported on the quick rise and heavy trading of Avon Products stock on May 14, 2015.<sup>2</sup> The stock, trading at just below seven dollars, jumped over one dollar a share. The sharp rise in price and trading of Avon stock occurred within minutes of a regulatory filing on the SEC's Electronic Data Gathering, Analysis, and Retrieval system (EDGAR).<sup>3</sup>

The filing was from a company calling itself PTG Capital and it claimed to be a Tender Offer Statement Under Section 14(d)(1) or 13(e)(1) of the Securities Exchange Act of 1934 to acquire Avon for \$18.75 per share. As of the date of this letter, the

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<sup>1</sup> <http://www.sec.gov/about/whatwedo.shtml>

<sup>2</sup> New York Times, A Phantom Offer Sends Avon's Shares Surging, May 14, 2015 Matthew Goldstein and David Gelles [http://www.nytimes.com/2015/05/15/business/dealbook/a-phantom-offer-sends-avons-shares-surging.html?\\_r=1](http://www.nytimes.com/2015/05/15/business/dealbook/a-phantom-offer-sends-avons-shares-surging.html?_r=1)

<sup>3</sup> <http://www.sec.gov/edgar/aboutedgar.htm> EDGAR, the Electronic Data Gathering, Analysis, and Retrieval system, performs automated collection, validation, indexing, acceptance, and forwarding of submissions by companies and others who are required by law to file forms with the U.S. Securities and Exchange Commission (SEC). Its primary purpose is to increase the efficiency and fairness of the securities market for the benefit of investors, corporations, and the economy by accelerating the receipt, acceptance, dissemination, and analysis of time-sensitive corporate information filed with the agency.

statement remains on the SEC website.<sup>4</sup> Within hours of the posting, however, it became clear that the information posted on EDGAR was likely untrue. Attempts by media representatives to contact PTG Capital or the firm's reported lawyer suggested both were fictitious.<sup>5</sup> Avon issued a statement saying that it had not received an offer and could not confirm that PTG even existed.<sup>6</sup>

It is reassuring that what happened in this incident of potential market manipulation is being pursued by the SEC and the Federal Bureau of Investigation.<sup>7</sup> Given what is known, however, it may not be enough to simply find the wrongdoers in this one case. It is critical that the SEC also address the systemic vulnerability exposed by this incident.

As noted above, the sharp rise in price and trading of Avon stock occurred within minutes of a regulatory filing on EDGAR. EDGAR "performs automated collection, *validation*, indexing, acceptance, and forwarding of submissions by companies and others who are required by law to file forms with the SEC" (emphasis added).<sup>8</sup> It is the validation of information submitted to the SEC that is at issue here.

The initial response of the SEC to the trading in Avon stock on May 14 included the observation that EDGAR functions simply as a repository for information and that the information should not be relied on as accurate.<sup>9</sup> Given the high number of filings made on EDGAR, there would be a cost associated with more detailed verification of each and every new filing. But the potential use of materials posted on EDGAR to manipulate markets has a cost as well.

In 2012 another case of stock manipulation involved the fraudulent posting of a takeover bid on the EDGAR system.<sup>10</sup> In that case, another apparently non-existent investment firm made a buyout proposal for Rocky Mountain Chocolate Factory. The

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<sup>4</sup> <http://www.sec.gov/Archives/edgar/data/8868/000164016015000003/avptoc1.txt>

<sup>5</sup> New York Times, A Phantom Offer Sends Avon's Shares Surging, May 14, 2015 Matthew Goldstein and David Gelles [http://www.nytimes.com/2015/05/15/business/dealbook/a-phantom-offer-sends-avons-shares-surging.html?\\_r=1](http://www.nytimes.com/2015/05/15/business/dealbook/a-phantom-offer-sends-avons-shares-surging.html?_r=1)

<sup>6</sup> Id.

<sup>7</sup> Wall Street Journal, May 15, 2015 FBI Delves Into Dubious Avon Bid, Andrew Ackerman, Liz Hoffman and Aruna Viswanatha <http://www.wsj.com/articles/u-k-office-looking-into-suspicious-avon-bid-1431709283>

<sup>8</sup> <http://www.sec.gov/edgar/aboutedgar.htm> EDGAR, the Electronic Data Gathering, Analysis, and Retrieval system, performs automated collection, validation, indexing, acceptance, and forwarding of submissions by companies and others who are required by law to file forms with the U.S. Securities and Exchange Commission (SEC). Its primary purpose is to increase the efficiency and fairness of the securities market for the benefit of investors, corporations, and the economy by accelerating the receipt, acceptance, dissemination, and analysis of time-sensitive corporate information filed with the agency.

<sup>9</sup> Fortune Magazine, SEC enables Avon stock scam, and doesn't seem to care, May 15, 2015, Dan Primack <http://fortune.com/2015/05/15/sec-enables-avon-stock-scam-and-doesnt-seem-to-care/>

<sup>10</sup> New York Times, A Phantom Offer Sends Avon's Shares Surging, May 14, 2015 Matthew Goldstein and David Gelles [http://www.nytimes.com/2015/05/15/business/dealbook/a-phantom-offer-sends-avons-shares-surging.html?\\_r=1](http://www.nytimes.com/2015/05/15/business/dealbook/a-phantom-offer-sends-avons-shares-surging.html?_r=1)

case ended up costing the company a great deal of time and money to say nothing of the possible losses for investors.<sup>11</sup>

This pattern of fraudulent conduct is troubling, especially in light of the relative ease in which a fake posting can be made. A review of standards for posting on EDGAR is called for. Accordingly, please answer the following questions:

1. What, if any, efforts are made to verify any of the filings on EDGAR? What are the time deadlines associated with these verifications?
2. How many instances of false postings to the EDGAR system have there been in the last 3 years? Please provide a list with information such as date of filing, type of filing and an explanation of the information in the filing that was determined to be false.
3. Has any attempt been made by the SEC to determine what the cost to investors and market participants was as a result of the false postings to EDGAR? If there has, please provide that information. If not, please explain why not?
4. How many of the approximately 4,000 daily filings made on EDGAR are made by first time users of the system?
5. Has any attempt been made by the SEC to determine what the costs would be to verify the information on its most common filings? If there has, please provide the results of that effort. If not, why not?
6. What other steps has the SEC taken to address the systemic vulnerabilities exposed by this incident?

Please provide your written response to these questions by June 16, 2015. Should you have any questions regarding these issues, please contact Paul Junge of Chairman Grassley's staff at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Committee on the Judiciary

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<sup>11</sup> Id.