

# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Hans-Joachim Hacker  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

Dear Herr Hacker,

The National Foreign Trade Council, organized in 1914, is an association of some 300 U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities, and have for many years been significant investors in many foreign countries, amongst which one of the most significant is Germany. The future economic health of the world relies upon successful globalization rather than the imposition of rules that restrict – or discourage – cross-border flows of capital. Our members are concerned that some of the tax changes which have been passed by the Bundestag as part of the reform package, and which are intended to stimulate the German economy, may have exactly the opposite effect by discouraging foreign investment. As set out below, our members' two principal concerns relate to the provisions on thin capitalization and on the use of net operating losses.

The extension of the thin capitalization rules strikes our members as particularly worrisome. The rules are proposed to be expanded to partnerships, branches of foreign corporations and to purely domestic financing arrangements. At the same time the permitted ratio of debt to equity (over which interest will be disallowed) is being lowered, even for holding corporations, to 1.5:1. Deductions for interest incurred on certain acquisition financing will be completely disallowed. The combined effect of these changes will be to significantly impede completely legitimate financing transactions (particularly in the financial services area where leverage rates are generally higher), which can only discourage inward investment.

An additional observation on the proposed thin capitalization rules is that we appear to be close to a potentially damaging struggle that could curtail or even prevent the often very efficient debt financing of foreign operations. Over the past 1½ years the NFTC has supported foreign-owned corporations in the United States seeking to prevent further, disadvantageous tightening of the U.S. thin capitalization rules under section 163(j) of the


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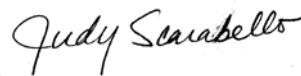
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President

  
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Herr Wilhelm Schmidt  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

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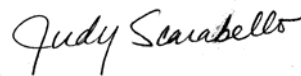
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Herr Joachim Poß  
Deutscher Bundestag  
Platz der Republik 1  
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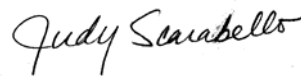
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Herr Norbert Geis  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

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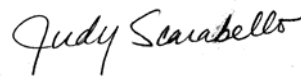
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Herr Volker Kauder  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
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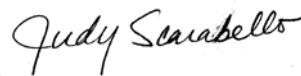
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Deutscher Bundestag  
Platz der Republik 1  
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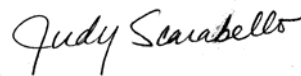
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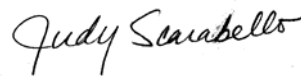
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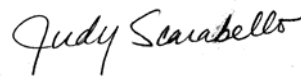
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Sincerely,

  
William Reinsch  
President

  
Judy Scarabello  
Vice President for Tax Policy

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# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Michael Müller  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

Dear Herr Müller,

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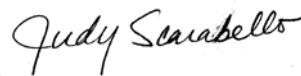
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# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Ortwin Runde  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

Dear Herr Runde,

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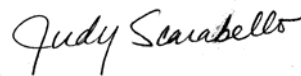
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# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Frau Krista Sager  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

Dear Frau Sager,

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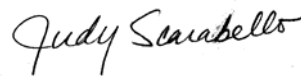
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# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Frau Gudrun Schaich-Walch  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

Dear Frau Schaich-Walch,

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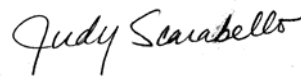
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Ludwig Stiegler  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

Dear Herr Stiegler,

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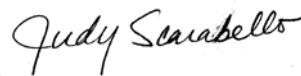
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Jörg Ludwig van Essen  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

Dear Herr van Essen,

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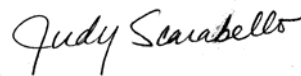
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Eckart von Klaeden  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

Dear Herr von Klaeden,

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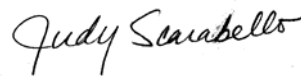
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

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Herr Joachim Hörster  
Deutscher Bundestag  
Platz der Republik 1  
11011 Berlin  
Germany

Dear Herr Hörster,

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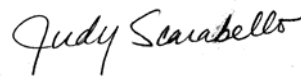
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Sincerely,

  
William Reinsch  
President

  
Judy Scarabello  
Vice President for Tax Policy

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# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Dieter Althaus MdL  
Thüringer Staatskanzlei  
Regierungsstraße 73  
99084 Erfurt  
Germany

Dear Herr Althaus,

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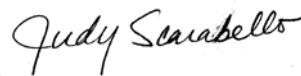
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Dr. Wolfgang Böhmer  
Staatskanzlei des Landes Sachsen-Anhalt  
Domplatz 4  
39104 Magdeburg  
Germany

Dear Dr. Böhmer,

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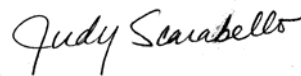
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Roland Koch MdL  
Hessische Staatskanzlei  
Bierstadter Straße 2  
65189 Wiesbaden  
Germany

Dear Herr Koch,

The National Foreign Trade Council, organized in 1914, is an association of some 300 U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities, and have for many years been significant investors in many foreign countries, amongst which one of the most significant is Germany. The future economic health of the world relies upon successful globalization rather than the imposition of rules that restrict – or discourage – cross-border flows of capital. Our members are concerned that some of the tax changes which have been passed by the Bundestag as part of the reform package, and which are intended to stimulate the German economy, may have exactly the opposite effect by discouraging foreign investment. As set out below, our members' two principal concerns relate to the provisions on thin capitalization and on the use of net operating losses.

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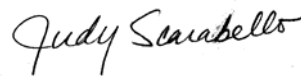
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# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Peter Müller MdL  
Staatskanzlei  
Am Ludwigsplatz 14  
66117 Saarbrücken  
Germany

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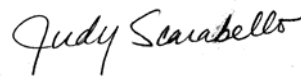
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Matthias Platzeck  
Staatskanzlei des Landes Brandenburg  
Heinrich-Mann-Allee 107  
14473 Potsdam  
Germany

Dear Herr Platzeck,

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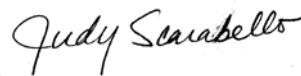
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Bürgermeister Henning Scherf  
Rathaus  
Am Markt 21  
28195 Bremen  
Germany

Dear Bürgermeister Scherf,

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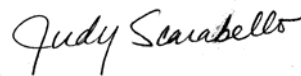
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TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Peer Steinbrück MdL  
Staatskanzlei des Landes Nordrhein-Westfalen  
Stadttor 1  
40219 Düsseldorf  
Germany

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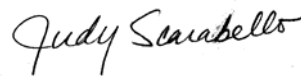
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William Reinsch  
President

  
Judy Scarabello  
Vice President for Tax Policy

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# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Christian Wulff MdL  
Niedersächsische Staatskanzlei  
Planckstr. 2  
30169 Hannover  
Germany

Dear Herr Wulff,

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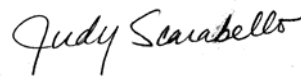
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# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Frau Sigrid Keler MdL  
Finanzministerium des Landes Mecklenburg-Vorpommern  
Schloßstraße 9-11  
19053 Schwerin  
Germany

Dear Frau Keler,

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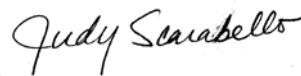
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Gernot Mittler MdL  
Ministerium der Finanzen des Landes Rheinland-Pfalz  
Kaiser-Friedrich-Straße 5  
55116 Mainz  
Germany

Dear Herr Mittler,

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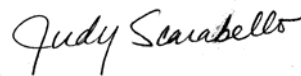
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Dr. Thilo Sarrazin  
Senatsverwaltung für Finanzen  
Klosterstraße 59  
10179 Berlin  
Germany

Dear Dr. Sarrazin,

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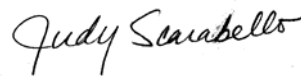
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Dr. Ralf Stegner  
Finanzministerium des Landes Schleswig-Holstein  
Düsternbrooker Weg 64  
24105 Kiel  
Germany

Dear Dr. Stegner,

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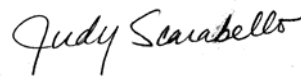
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Dr. Thomas de Maiziére  
Sächsisches Staatsministerium der Justiz  
Hospitalstraße 7  
01097 Dresden  
Germany

Dear Dr. de Maiziére,

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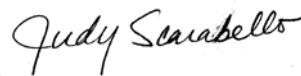
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



FAX: (202) 452-8160

November 17, 2003

Herr Erwin Huber MdL  
Bayerische Staatskanzlei  
Franz-Josef-Strauß-Ring 1  
80539 München  
Germany

Dear Herr Huber,

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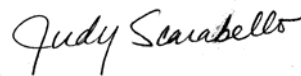
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1625 K STREET, NW, WASHINGTON, DC 20006-1604

TEL: (202) 887-0278



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November 17, 2003

Herr Rudolf Köberle MdL  
Staatsministerium Baden-Württemberg  
Richard-Wagner-Str. 15  
70184 Stuttgart  
Germany

Dear Herr Köberle,

The National Foreign Trade Council, organized in 1914, is an association of some 300 U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities, and have for many years been significant investors in many foreign countries, amongst which one of the most significant is Germany. The future economic health of the world relies upon successful globalization rather than the imposition of rules that restrict – or discourage – cross-border flows of capital. Our members are concerned that some of the tax changes which have been passed by the Bundestag as part of the reform package, and which are intended to stimulate the German economy, may have exactly the opposite effect by discouraging foreign investment. As set out below, our members' two principal concerns relate to the provisions on thin capitalization and on the use of net operating losses.

The extension of the thin capitalization rules strikes our members as particularly worrisome. The rules are proposed to be expanded to partnerships, branches of foreign corporations and to purely domestic financing arrangements. At the same time the permitted ratio of debt to equity (over which interest will be disallowed) is being lowered, even for holding corporations, to 1.5:1. Deductions for interest incurred on certain acquisition financing will be completely disallowed. The combined effect of these changes will be to significantly impede completely legitimate financing transactions (particularly in the financial services area where leverage rates are generally higher), which can only discourage inward investment.

An additional observation on the proposed thin capitalization rules is that we appear to be close to a potentially damaging struggle that could curtail or even prevent the often very efficient debt financing of foreign operations. Over the past 1½ years the NFTC has supported foreign-owned corporations in the United States seeking to prevent further, disadvantageous tightening of the U.S. thin capitalization rules under section 163(j) of the


U.S. tax code. We made successful arguments to the U.S. Congress that this would prevent legitimate parent corporation financing. Imposition of the rules now proposed by the German Government would likely reopen the debate in the United States – to the further detriment of international capital flows.

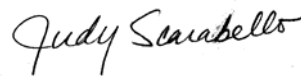
The second proposal which greatly concerns us, relates to the imposition of a 50% limitation on the absorption of operating losses. This is considerably more stringent than any other major country, and may impose highly uneconomic results on businesses.<sup>1</sup> The minimum tax proposal would result in especially serious adverse effects for foreign-owned businesses. This is particularly true for U.S.-owned businesses, because under U.S. tax rules, the mismatch between U.S. taxable income and German taxable income would be significant. In many cases, German taxes would no longer be creditable in the U.S. when tax is due on income, owing to timing differences and U.S. restrictions on tax credit carryforwards. The imposition of double taxation always diminishes cross-border investment.

If either of these proposals were enacted in the form currently suggested, the effects would be serious. If both are enacted in their current proposed form, the effect on inward investment could be very severe. We understand the budgetary challenge facing Germany, but urge you not to penalize those business entities that can actually contribute to helping the German economy to grow. We would ask you to both raise the proposed debt-to-equity ratio limit, and significantly reduce the restriction on the use of operating losses to a much smaller percentage.

Our members are eager to work with you to achieve an acceptable compromise. Please contact us to let us know how we can help.

Sincerely,

  
William Reinsch  
President

  
Judy Scarabello  
Vice President for Tax Policy

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<sup>1</sup> For example, both domestic and foreign-owned cyclical businesses that go through periods of loss and profits will be prevented from expanding as quickly in periods of profit, because they will not be able to fully use losses. Money that could have gone to growing the company and creating jobs will instead be paid in tax.

# NATIONAL FOREIGN TRADE COUNCIL, INC.

1625 K STREET, NW, WASHINGTON, DC 20006-1604

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FAX: (202) 452-8160

November 17, 2003

Senator Rudolf Lange  
Behörde für Bildung und Sport der Freien Hansestadt Hamburg  
Hamburger Straße 31  
22083 Hamburg  
Germany

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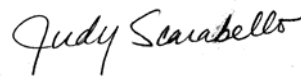
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