
No. 12-1398

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AMERICAN PETROLEUM INSTITUTE, *et al.*,

Petitioners,

v.

U.S. SECURITIES AND EXCHANGE COMMISSION,

Respondents,

and

OXFAM AMERICA,

Proposed Intervenor-Respondent.

**OXFAM AMERICA'S EMERGENCY MOTION FOR LEAVE TO FILE
RESPONSE TO PETITIONERS' EMERGENCY MOTION TO
DETERMINE JURISDICTION**

In accordance with Fed. R. App. P. and Circuit Rule 27, Oxfam America (“Oxfam”), which has moved to intervene in this matter, respectfully requests leave to file a response to Petitioners’ Emergency Motion to Determine Jurisdiction (“Response”) while Oxfam’s intervention motion is pending. Oxfam’s proposed Response is being lodged with this Court contemporaneously herewith.

As grounds for this Motion, Oxfam states as follows:

1. Petitioners seek to establish the jurisdiction of this Court to entertain a Petition for Review challenging the so-called Cardin-Lugar Provision, Section 1504 of the Dodd-Frank Wall Street Reform Act and Consumer Protection Act (“Cardin-Lugar”), as well as the regulation promulgated by the U.S. Securities and Exchange Commission (“SEC”) to implement Cardin-Lugar (the “Disclosure Rule”). Both as an investor and as a nonprofit international development and relief organization, Oxfam has a direct interest in the full and immediate implementation of the Disclosure Rule. Oxfam invests in companies subject to the Disclosure Rule and will rely on the information required to be disclosed under this rule to inform its participation as a shareholder and to further its core development and relief missions.

2. Accordingly, on October 24, 2012, Oxfam filed an Emergency Motion to Intervene in this action.¹ However, to ensure that Oxfam has the opportunity to be heard on Petitioners’ Motion To Determine Jurisdiction while Oxfam’s intervention request is pending, Oxfam files the instant Motion for Leave.

3. Both the Petitioners and the SEC have taken the position that this Court has jurisdiction over Petitioners’ direct appeal. *See* Pets.’ Emergency Mot. to Determine Jurisdiction (Dkt. No. 1399710, Oct. 15, 2012), at 4-11; SEC Resp.

¹ Oxfam’s Emergency Motion to Intervene seeks in the alternative to participate as *amicus curiae*. Oxfam’s Emergency Motion explains how its interests will be impaired if Petitioners’ challenge succeeds and how the SEC will not adequately represent Oxfam’s interests.

to Pets.’ Emergency Mot. to Determine Jurisdiction (Dkt. No. 1401968, Oct. 23, 2012) at 2-4. Oxfam disagrees. Oxfam’s Response asserts that neither the Disclosure Rule nor the statutory provision under which it was promulgated provides for direct appellate review. This Court’s determination of the issues raised by Petitioners’ Motion To Determine Jurisdiction would benefit from a full vetting, rather than a one-sided presentation of the arguments in favor of jurisdiction.

4. Counsel for Oxfam has consulted with counsel for Petitioners and Respondents concerning this motion. The SEC consents to the motion, and Petitioners take no position at this time.

Accordingly, Oxfam respectfully seeks leave to file a response to Petitioners’ Emergency Motion while Oxfam’s Emergency Motion for Leave to Intervene is pending.

Respectfully submitted,

/s/ Howard M. Crystal

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of October, 2012, I electronically filed the foregoing Oxfam America's Motion for Leave to File Response to Petitioners' Emergency Motion to Determine Jurisdiction, with the clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the CM/ECF system. I certify that all participants in the case are CM/ECF users and that service will be accomplished by the appellate CM/ECF system. I also certify that I have caused 4 copies to be hand delivered to the Clerk's office.

/s/ Howard M. Crystal