

THE SARBANES-OXLEY ACT OF 2002

Summary of Key Provisions of Interest to Internal Auditors

Sec. 1. Short title; table of contents.

The Sarbanes-Oxley Act of 2002.

Sec. 2. Definitions.

Defines terms used in the bill, including the following:

- ‘Public accounting firm’ means: (A) a proprietorship, partnership, incorporated association, corporation, limited liability company, limited liability partnership, or other legal entity that is engaged in the practice of public accounting or preparing or issuing audit reports; and (B) any associated person of any such entity.
- ‘Registered public accounting firm’ means a public accounting firm registered with the Board in accordance with this Act.
- ‘Board’ means the Public Company Accounting Oversight Board established under section 101.
- ‘Issuer’ means an issuer as defined in section 3 of the Securities Exchange Act of 1934, the securities of which are registered under section 12 of that Act, or that is required to file reports under section 15(d) , or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn.
- ‘Audit’ means an examination of the financial statements of any issuer by an independent public accounting firm in accordance with the rules of the Board or the Commission for the purpose of expressing an opinion on such statements.
- ‘Audit committee’ means: (A) a committee established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; or (B) the entire board of directors if no such committee exists.
- ‘Audit report’ means a document or other record: (A) prepared following an audit performed for purposes of compliance by an issuer with the requirements of the securities laws; and (B) in which a public accounting firm either: (1) sets forth the opinion of that firm regarding a financial statement, report, or other document; or (2) asserts that no such opinion can be expressed.
- ‘Non-audit services’ means any professional services provided to an issuer by a registered public accounting firm, other than those provided to an issuer in connection with an audit or a review of the financial statements of an issuer.
- ‘Person associated with a public accounting firm’ means any individual proprietor, partner, shareholder, principal, accountant, or other professional employee of a public accounting firm, or any other independent contractor or entity that, in connection with the preparation or issuance of any audit report: (A) shares in the profits of, or receives compensation in any other form from, that firm; or (B) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm. (SEC can make exemptions for ministerial individuals.)
- ‘Professional standards’ means: (A) accounting principles that are (1) established by the standard setting body; and (2) relevant to audit reports for particular issuers, or dealt with in the quality control

system of a particular registered public accounting firm; and (B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards that the Board or SEC determines (1) relate to the preparation or issuance of audit reports for issuers; and (2) are established or adopted by the Board or promulgated as SEC rules.

- ‘Appropriate State regulatory authority’ means the State agency or other authority responsible for the licensure or other regulation of the practice of accounting in the State or States having jurisdiction over a registered public accounting firm or associated person thereof, with respect to the matter in question.

Sec. 3. Commission rules and enforcement.

TITLE I--PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

Sec. 101. Establishment; administrative provisions.

The Public Company Accounting Oversight Board (The Board) is established as an independent (non-federal) non-profit corporation. It shall oversee the audit of public companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports for companies the securities of which are sold to, and held by and for, public investors.

The Board shall have five members, appointed from among prominent individuals of integrity and reputation who have a demonstrated commitment to the interests of investors and the public, and an understanding of the responsibilities for and nature of the financial disclosures required of issuers under the securities laws and the obligations of accountants with respect to the preparation and issuance of audit reports with respect to such disclosures.

Two members, and only two members, of the Board shall be or have been certified public accountants. If one of those two members is the chairperson, he or she may not have been a practicing certified public accountant for at least five years prior to his or her appointment to the Board.

This section also includes provisions: (A) requiring full-time independent service; (B) providing for initial board appointments; (C) establishing terms of service; (D) setting term limits; and (E) providing for the removal of Board members.

The Board shall:

- Register public accounting firms that prepare audit reports for issuers.
- Establish or adopt, or both, by rule, auditing, quality control, ethics, independence, and other standards relating to the preparation of audit reports for issuers.
- Conduct inspections of registered public accounting firms.
- Conduct investigations and disciplinary proceedings concerning, and impose appropriate sanctions where justified upon, registered public accounting firms and associated persons of such firms.
- Perform such other duties or functions as the Board determines are necessary or appropriate to promote high professional standards among, and improve the quality of audit services offered by,

registered public accounting firms and associated persons thereof, or otherwise to carry out this Act, in order to protect investors, or to further the public interest.

- Enforce compliance with this Act, the rules of the Board, professional standards, and the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, by registered public accounting firms and associated persons thereof.
- Set the budget and manage the operations of the Board and the staff of the Board.

With respect to administrative provisions, the bill: (A) establishes the powers of the Board; (B) provides for Board rules of operation; and (C) requires an annual report of the Board to the SEC and Congress.

Sec. 102. Registration with the Board.

Beginning 180 days after the SEC certifies that the Board is operational, it shall be unlawful for any person who is not with a registered public accounting firm to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer.

Each public accounting firm shall submit, as part of its application for registration, in such detail as the Board shall specify:

- the names of all issuers for which the firm prepared or issued audit reports during the immediately preceding calendar year, and for which the firm expects to prepare or issue audit reports during the current calendar year;
- the annual fees received by the firm from each such issuer for audit services, other accounting services, and non-audit services, respectively;
- such other current financial information for the most recently completed fiscal year of the firm as the Board may reasonably request;
- a statement of the quality control policies of the firm for its accounting and auditing practices;
- a list of all accountants associated with the firm who participate in or contribute to the preparation of audit reports, stating the license or certification number of each such person, as well as the State license numbers of the firm itself;
- information relating to criminal, civil, or administrative actions or disciplinary proceedings pending against the firm or any associated person of the firm in connection with any audit report;
- copies of any periodic or annual disclosure filed by an issuer with the SEC during the immediately preceding calendar year which discloses accounting disagreements between such issuer and the firm in connection with an audit report furnished or prepared by the firm for such issuer; and
- such other information as the rules of the Board or SEC shall specify as necessary or appropriate in the public interest or for the protection of investors.

Each application for registration shall also include the following consents:

- A consent executed by the public accounting firm to cooperation in and compliance with any request for testimony or the production of documents made by the Board in the furtherance of its authority

and responsibilities under this title (and an agreement to secure and enforce similar consents from each of the associated persons of the public accounting firm as a condition of their continued employment by or other association with such firm); and

- A statement that such firm understands and agrees that cooperation and compliance, as described in the consent required by subparagraph (A), and the securing and enforcement of such consents from its associated persons, in accordance with the rules of the Board, shall be a condition to the continuing effectiveness of the registration of the firm with the Board.

The Board shall approve or disapprove all registration applications within 45 days. A written notice of disapproval shall be considered a sanction under sections 105(d) and 107(c).

Annual registration update reports are required.

Registration applications and annual update reports will become public documents, provided that items marked as proprietary may be exempt from such disclosure.

The Board shall assess and collect a registration fee and an annual fee from each registered public accounting firm, in amounts that are sufficient to recover the costs of processing and reviewing applications and annual reports.

Sec. 103. Auditing, quality control, and independence standards and rules.

The Board shall establish auditing and related attestation standards, quality control standards, and ethics standards to be used by registered public accounting firms in the preparation and issuance of audit reports. These standards may, to the extent the Board deems appropriate, be based upon proposals from one or more professional groups of accountants or advisory groups. However, the Board may amend or otherwise modify or alter the standards proposed by such groups.

The Board shall include in the auditing standards that it adopts, requirements that each registered public accounting firm shall:

- prepare, and maintain for a period of not less than 7 years, audit work papers, and other information related to any audit report, in sufficient detail to support the conclusions reached in such report; and
- provide a concurring or second partner review and approval of such audit report (and other related information), and concurring approval in its issuance, by a qualified person associated with the public accounting firm, other than the person in charge of the audit, or by an independent reviewer.

The auditing standards shall also include requirements that each registered public accounting firm shall describe in each audit report the scope of the auditor's testing of the internal control structure and procedures of the issuer, required by section 404(b), and present (in such report or in a separate report):

- the findings of the auditor from such testing;
- an evaluation of whether such internal control structure and procedures:
 1. include maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and
 2. provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that

- receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer; and
- a description, at a minimum, of material weaknesses in such internal controls, and of any material noncompliance found on the basis of such testing.

The auditing standards shall also include – in the quality control standards that the Board adopts with respect to the issuance of audit reports – requirements for every registered public accounting firm relating to:

- monitoring of professional ethics and independence from issuers on behalf of which the firm issues audit reports;
- consultation within such firm on accounting and auditing questions;
- supervision of audit work;
- hiring, professional development, and advancement of personnel;
- the acceptance and continuation of engagements;
- internal inspection; and
- such other requirements as the Board may prescribe.

These explicit requirements notwithstanding, the bill also includes authority for the Board to adopt other standards, including initial and transitional standards.

The Board may convene and cooperate with expert advisory groups comprised of practicing accountants and other experts, as well as representatives of other interested groups to make recommendations concerning the content of auditing, quality control, ethics, independence, or other standards.

Sec. 104. Inspections of registered public accounting firms.

The Board shall conduct a continuing program of inspections to assess the degree of compliance of each registered public accounting firm with this Act, the rules of the Board, SEC rules, or professional standards. Such inspections shall be focused on the firm's performance of audits, issuance of audit reports, and related matters involving issuers, and shall be conducted: (A) annually for each registered public accounting firm that regularly provides audit reports for more than 100 issuers; and (B) at least once every three years for each registered public accounting firm that regularly provides audit reports for 100 or fewer issuers. (The Board has the authority to adjust this schedule.)

Inspection procedures shall include the following:

- identify any act or practice or omission to act by the registered public accounting firm, or by any associated person thereof, revealed by such inspection that may be in violation of this Act, the rules of the Board, the rules of the Commission, the firm's own quality control policies, or professional standards;
- report any such act, practice, or omission, if appropriate, to the SEC and each appropriate State regulatory authority; and

- begin a formal investigation or take appropriate disciplinary action, if any, with respect to any such violation.

In conducting such inspections, the Board shall:

- inspect and review selected audit and review engagements of the firm (which may include audit engagements that are the subject of ongoing litigation or other controversy between the firm and one or more third parties), performed at various offices and by various associated persons of the firm, as selected by the Board;
- evaluate the sufficiency of the quality control system of the firm, and the manner of the documentation and communication of that system by the firm; and
- perform such other testing of the audit, supervisory, and quality control procedures of the firm as are necessary or appropriate in light of the purpose of the inspection and the responsibilities of the Board.

Each inspection shall be documented in an inspection report. These reports shall be transmitted to the SEC and State regulatory authorities and may be released to the public (with some limitations). A registered public accounting firm can seek SEC review of an inspection report.

Sec. 105. Investigations and disciplinary proceedings.

The Board may conduct an investigation of any act or practice, or omission to act, by a registered public accounting firm, any associated person of such firm, or both, that may violate any provision of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, or professional standards.

The Board is authorized to:

- compel testimony of the firm or of any person associated with a registered public accounting firm, with respect to any matter that the Board considers relevant or material to an investigation;
- require the production of audit work papers and any other document that the Board considers relevant or material to the investigation;
- request testimony and documents from any other person (including any client of a registered public accounting firm) that the Board considers relevant or material to an investigation; and
- seek issuance by the SEC of a subpoena to require testimony or documents from any person (including any client of a registered public accounting firm) that the Board considers relevant or material to such investigation.

Individuals or firms that refuses to testify or produce documents may be disciplined by the Board.

The Board shall notify the SEC of any pending Board investigation involving a potential violation of the securities laws, and thereafter coordinate its work with the work of the SEC's Division of Enforcement, as necessary to protect an ongoing SEC investigation. In addition, the Board is authorized to refer any investigation to the SEC and at the direction of the SEC to the Department of Justice, and/or appropriate State regulatory and legal authorities.

Documents produced or prepared in conjunction with an investigation may be made available to the SEC. At the discretion of the Board, such documents may also be provided to other Federal or State agencies. In all such instances, the confidential and privileged status of the documents shall be protected.

The Board is authorized to conduct disciplinary proceedings (generally closed to the public) and impose sanctions following such proceedings.

If the Board finds, based on all of the facts and circumstances, that a registered public accounting firm or associated person thereof has engaged in any act or practice, or omitted to act, in violation of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, or professional standards, the Board may impose such disciplinary or remedial sanctions as it determines appropriate, including:

- temporary suspension or permanent revocation of registration under this title;
- temporary or permanent suspension or bar of a person from further association with any registered public accounting firm;
- temporary or permanent limitation on the activities, functions, or operations of such firm or person (other than in connection with required additional professional education or training);
- a civil money penalty for each such violation, in an amount equal to: (1) up to \$100,000 for a natural person or \$2,000,000 for any other person; and (2) up to \$750,000 for a natural person or \$15,000,000 for any other person in circumstances of 'intentional or other knowing conduct;
- censure;
- required additional professional education or training; or
- any other appropriate sanction provided for in the rules of the Board.

The sanctions imposed under this section can extend to the supervisory personnel of any regulated public accounting firm for a 'failure to reasonably supervise.'

Effects of suspension shall be as follows:

- It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any registered public accounting firm, or for any registered public accounting firm that knew, or, in the exercise of reasonable care should have known, of the suspension or bar, to permit such an association, without the consent of the Board or the SEC.
- It shall be unlawful for any person that is suspended or barred from being associated with an issuer under this subsection willfully to become or remain associated with any issuer in an accountancy or a financial management capacity, and for any issuer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the SEC.

Sanctions are to be reported to the SEC, state and foreign regulatory authorities and the public (after an automatic stay is lifted).

Sec. 106. Foreign public accounting firms.

Any foreign public accounting firm that prepares or furnishes an audit report with respect to any issuer, shall be subject to this Act and the rules of the Board and the SEC issued under this Act. In addition, the Board can determine by rule that other foreign firms that meet certain tests must register as a public accounting firm. Such foreign firms may be required to produce any audit work papers requested by the Board pursuant to an investigation.

Sec. 107. Commission oversight of the Board.

The SEC shall have specified oversight and enforcement authority over the Board, as follows:

- board rules and revisions thereto cannot take effect until approved by the SEC;
- the SEC can amend (abrogate, delete, or add) the Board's rules;
- the SEC can, with respect to disciplinary action (sanction) taken by the Board, 'enhance, modify, cancel, reduce, or remit to the Board' any such action;
- upon certain findings, the SEC can relieve the Board of its enforcement responsibilities;
- censure the entire Board; and
- remove from office or censure any members of the Board.

Sec. 108. Accounting standards.

The SEC may recognize, as 'generally accepted' for purposes of the securities laws, any accounting principles established by a standard setting body that:

- is organized as a private entity;
- has a board of trustees serving in the public interest, the majority of whom are not, concurrent with their service on such board, and have not been during the two-year period preceding such service, associated persons of any registered public accounting firm; is funded as provided in section 109 of this Act;
- has adopted procedures to ensure prompt consideration, by majority vote of its members, of changes to accounting principles necessary to reflect emerging accounting issues and changing business practices; and
- considers, in adopting accounting principles, the need to keep standards current in order to reflect changes in the business environment, the extent to which international convergence on high quality accounting standards is necessary or appropriate in the public interest and for the protection of investors; and
- that the SEC determines has the capacity to assist it in fulfilling the requirements of the Securities Exchange Act of 1934, because, at a minimum, the standard setting body is capable of improving the accuracy and effectiveness of financial reporting and the protection of investors under the securities laws.

Any such standard setting body described in this section shall submit an annual report to the SEC and the public, containing audited financial statements of that standard setting body.

The SEC shall conduct a study on the adoption by the United States financial reporting system of a principles-based accounting system, including an examination of:

- the extent to which principles-based accounting and financial reporting exists in the United States;
- the length of time required for change from a rules-based to a principles-based financial reporting system;
- the feasibility of and proposed methods by which a principles-based system may be implemented; and
- a thorough economic analysis of the implementation of a principles-based system.

A report on the study shall be submitted to the Congressional committees of jurisdiction within one year after the date of enactment.

Sec. 109. Funding.

In general, financial support for the Board and the standard setting body will be borne by issuers.

TITLE II--AUDITOR INDEPENDENCE

Sec. 201. Services outside the scope of practice of auditors.

Makes it unlawful for a registered public accounting firm to contemporaneously perform both audit and non-audit services. The prohibited non-audit services include the following:

- bookkeeping or other services related to the accounting records or financial statements of the audit client;
- financial information systems design and implementation;
- appraisal or valuation services, fairness opinions, or contribution-in-kind reports;
- actuarial services;
- internal audit outsourcing services;
- management functions or human resources;
- broker or dealer, investment advisor, or investment banking services;
- legal services and expert services unrelated to the audit; and
- any other service that the Board determines, by regulation, impermissible.

Beyond these prohibitions, a registered public accounting firm may engage in any non-auditing service (including tax services) for an audit client only if the such service is approved in advance by the client's audit committee.

Exemptions from the prohibitions may be granted by the Board on a case-by-case basis to the extent that such exemption is necessary or appropriate in the public interest. Such exemptions are subject to review by the SEC.

Sec. 202. Preapproval requirements.

All auditing services (including underwriting comfort letters or statutory audits required for insurance companies for purposes of State law) and non-audit services must be preapproved by the issuer's audit committee.

De minimus exception: Preapproval is not required for non-auditing services if: (1) the aggregate dollar value of such services does not exceed five percent of the total revenues paid by the issuer to the auditor during the fiscal year in which the nonaudit services are provided; (2) such services were not recognized by the issuer at the time of the engagement to be non-audit services; and (3) such services are promptly brought to the attention of and approved by the audit committee prior to the completion of the audit.

Any audit committee approval of non-audit services shall be disclosed to investors in the required periodic reports.

The audit committee may delegate preapproval authority to one or more of its members (who are independent directors) provided that any decisions taken by that delegated member(s) must be presented to the audit committee.

Sec. 203. Audit partner rotation.

Makes it unlawful for a registered public accounting firm to provide audit services to an issuer if either (1) the lead audit partner or (2) the audit partner responsible for reviewing the audit has provided such services to the issuer in each of the prior five years.

Sec. 204. Auditor reports to audit committees.

Requires registered public accounting firms to make timely reports to its issuer clients. Such reports shall include:

- all critical accounting policies and practices to be used;
- all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the issuer, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the auditor; and
- other material written communications between the auditor and management of the issuer (e.g. management letter or schedule of unadjusted differences).

Sec. 205. Conforming amendments.**Sec. 206. Conflicts of interest.**

It shall be unlawful for a registered public accounting firm to provide any audit service to an issuer if the issuer's CEO, CFO, CAO (Chief Accounting Officer), or controller was previously employed by the auditor and participated in any capacity in the audit of the issuer during the one-year period preceding the date of the initiation of the audit.

Sec. 207. Study of mandatory rotation of registered public accounting firms.

The Government Accounting Office (GAO) shall conduct a study and review of the potential effects of requiring the mandatory rotation of registered public accounting firms. A report on such study is due to the relevant Congressional committees within one year after enactment. (The term 'mandatory rotation' refers to the imposition of a limit on the period of years in which a particular registered public accounting firm may be the auditor of record for a particular issuer.)

Sec. 208. Commission authority.

Within 180 days after enactment, the SEC shall issue final rules relating to the amendments to the 1934 Act as amended by this bill.

Beginning immediately, it shall be unlawful for any registered public accounting firm to prepare or issue any audit report with respect to any issuer, if the firm engages in any activity with respect to that issuer prohibited by any of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title, or any rule or regulation of the Commission or of the Board issued thereunder.

Sec. 209. Considerations by appropriate State regulatory authorities.

In supervising non-registered public accounting firms appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act should not be presumed to be applicable for purposes of this section for small and medium sized non-registered public accounting firms.

TITLE III--CORPORATE RESPONSIBILITY**Sec. 301. Public company audit committees.**

Within 270 days after the date of enactment, the SEC shall issue rules directing the national securities exchanges and national securities associations to prohibit the listing of any security for any issuer that doesn't have an audit committee, provided that there is a reasonable opportunity to cure defects prior to such prohibition.

An audit committee, in its capacity as a committee of the board of directors, shall be directly responsible for the appointment, compensation, and oversight of the work of any registered public accounting firm employed by that issuer (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work. The registered public accounting firm shall report directly to the audit committee.

Each member of the audit committee of the issuer shall be a member of the board of directors of the issuer, and shall otherwise be 'independent.' To be considered 'independent,' a member of an audit committee shall not: (1) accept any consulting, advisory, or other compensatory fee from the issuer; or (2) be an affiliated person of the issuer or any subsidiary. (The SEC is granted authority to make exemptions.)

Each audit committee shall establish procedures to: (1) receive, retain, and treat complaints; (2) handle whistleblower information regarding questionable accounting or auditing matters.

Each audit committee shall have the authority to engage independent counsel and other advisors.

Each issuer shall provide for appropriate funding, as determined by its audit committee, for payment of compensation to: (1) the registered public company accounting firm for audit reports; and (2) any independent counsel or advisor retained by the audit committee.

Sec. 302. Corporate responsibility for financial reports.

Within 30 days after enactment, the SEC shall, by rule, require, for each company filing periodic reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934, that the principal executive officer or

officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that:

- the signing officer has reviewed the report;
- based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;
- based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;
- the signing officers: (A) are responsible for establishing and maintaining internal controls; (B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared; (C) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the report; and (D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;
- the signing officers have disclosed to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function): (A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and
- the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Nothing in this section shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the required statement, by an issuer having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.

Sec. 303. Improper influence on conduct of audits.

It shall be unlawful for any officer, director, or affiliated person of an issuer to take any action, in contravention of a rule adopted by the SEC, to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in auditing that issuer's financial statements, for the purpose of rendering such financial statements materially misleading.

The SEC has exclusive civil authority to enforce this provision and any implementing rule or regulation. The authority conferred is in addition to, and does not preempt, any other authority of the SEC with respect to this area.

The SEC shall propose rules under this section within 90 days after enactment and finalize such rules within 270 days.

Sec. 304. Forfeiture of certain bonuses and profits.

If an issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer, as a result of misconduct, with any financial reporting requirement under the securities laws, the CEO and CFO of the issuer shall reimburse the issuer for: (1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the SEC (whichever first occurs) of the financial document embodying such financial reporting requirement; and (2) any profits realized from the sale of securities of the issuer during that 12-month period. (The SEC is authorized to make exemptions.)

Sec. 305. Officer and director bars and penalties.

Changes the standard for judging when an individual can be barred from service as an officer or director. Under current law, a federal court may bar any person who has violated the securities laws from acting as an officer or director of any issuer if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer. The legislation changes the standard by eliminating the word 'substantial.' In addition, the SEC may seek and the federal courts are empowered to grant any equitable relief that may be appropriate or necessary for the benefit of investors.

Sec. 306. Insider trades during pension fund blackout periods.**Sec. 307. Rules of professional responsibility for attorneys.****Sec. 308. Fair funds for investors.****TITLE IV--ENHANCED FINANCIAL DISCLOSURES****Sec. 401. Disclosures in periodic reports.**

Each financial report that is required to be prepared in accordance with generally accepted accounting principles under the Securities Exchange Act of 1934 and filed with the SEC shall reflect all material correcting adjustments that have been identified by a registered public accounting firm in accordance with generally accepted accounting principles and the rules and regulations of the SEC.

Within 180 days after the date of enactment, the SEC shall issue final rules providing that each annual and quarterly financial report shall disclose all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses.

Also within 180 days after the date of enactment, the SEC shall issue final rules providing that pro forma financial information included in any periodic or other report filed with the SEC pursuant to the securities laws, or in any public disclosure or press or other release, shall be presented in a manner that: (1) does not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the pro forma financial information, in light of the circumstances under which it is presented, not misleading; and (2) reconciles it with the financial condition and results of operations of the issuer under generally accepted accounting principles.

Within 18 months after enactment, the SEC shall complete a study of off-balance sheet disclosures made by issuers pursuant to this section. Six months later, the SEC shall submit a report on this study to the President, and the Congressional banking/financial services committees.

Sec. 402. Enhanced conflict of interest provisions.

It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, in the form of a personal loan to or for any director or executive officer of that issuer.

Exceptions: (1) any home improvement and manufactured home loans, (2) consumer credit, (3) any extension of credit under an open end credit plan, (4) a charge card, or (5) any extension of credit by a broker or dealer registered under section 15 of this title to an employee of that broker or dealer to buy, trade, or carry securities, that is permitted under rules or regulations of the Board of Governors of the Federal Reserve System pursuant to section 7 of this title (other than an extension of credit that would be used to purchase the stock of that issuer), that is: (A) made in the ordinary course of the consumer credit business of such issuer, (B) of a type that is generally made available by such issuer to the public; and (C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.

The prohibition also does not apply to any loan made or maintained by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), if the loan is subject to the insider lending restrictions of section 22(h) of the Federal Reserve Act.

Sec. 403. Disclosures of transactions involving management and principal stockholders.

Section 16(a) of the Securities Exchange Act of 1934 is substantially amended to require enhanced disclosures by management and principal stockholders. Among other things, some of these disclosures must be filed electronically and posted in near real time on the SEC Internet site and the Web site of the issuer beginning one year after the date of enactment.

Sec. 404. Management assessment of internal controls.

Requires the SEC to prescribe rules requiring each annual report required by section 13(a) or 15(d) of the Securities Exchange Act of 1934 to contain an internal control report, which shall: (1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and (2) contain an assessment, as of the end of the most recent fiscal year of the issuer, of the effectiveness of the internal control structure and procedures of the issuer for financial reporting.

With respect to the internal control assessment required by this section, each registered public accounting firm that prepares or issues the audit report for the issuer shall attest to, and report on, the assessment made by the management of the issuer. Such attestation shall be made in accordance with standards for attestation engagements issued or adopted by the Board. Any such attestation shall not be the subject of a separate engagement.

Sec. 405. Exemption.**Sec. 406. Code of ethics for senior financial officers.**

The SEC shall issue rules to require each issuer, together with periodic reports required pursuant to sections 13(a) and 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reason therefore, such issuer has adopted a code of ethics for senior financial officers, applicable to its principal financial officer and comptroller or principal accounting officer, or persons performing similar functions.

Within 180 days after enactment, the SEC shall amend its rules to require the immediate disclosure, by means of the filing of a form, dissemination by the Internet, or by other electronic means, by any issuer of any change in or waiver of the code of ethics of the issuer.

The term 'code of ethics' means such standards as are reasonably necessary to promote: (1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships; (2) full, fair, accurate, timely, and understandable disclosure in the periodic reports required to be filed by the issuer; and (3) compliance with applicable governmental rules and regulations.

Sec. 407. Disclosure of audit committee financial expert.

Within 180 days after enactment, the SEC shall issue final rules, as necessary or appropriate in the public interest and consistent with the protection of investors, to require each issuer, together with periodic reports required pursuant to sections 13(a) and 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reasons therefore, the audit committee of that issuer is comprised of at least one member who is a 'financial expert.'

In defining the term 'financial expert,' the SEC shall consider whether a person has, through education and experience as a public accountant or auditor or a principal financial officer, comptroller, or principal accounting officer of an issuer, or from a position involving the performance of similar functions: (1) an understanding of generally accepted accounting principles and financial statements; (2) experience in the preparation or auditing of financial statements of generally comparable issuers and the application of such principles in connection with the accounting for estimates, accruals, and reserves; (3) experience with internal accounting controls; and (4) an understanding of audit committee functions.

Sec. 408. Enhanced review of periodic disclosures by issuers.

The SEC shall review disclosures made by issuers reporting under section 13(a) of the Securities Exchange Act of 1934 (including reports filed on Form 10-K), and which have a class of securities listed on a national securities exchange or traded on an automated quotation facility of a national securities association, on a regular and systematic basis for the protection of investors. Such review shall occur no less often than once every three years and include a review of an issuer's financial statement.

For purposes of scheduling these reviews, the SEC shall consider, among other factors: (1) issuers that have issued material restatements of financial results; (2) issuers that experience significant volatility in their stock price as compared to other issuers; (3) issuers with the largest market capitalization; (4) emerging companies with disparities in price to earning ratios; (5) issuers whose operations significantly affect any material sector of the economy; and (6) any other factors that the Commission may consider relevant.

Sec. 409. Real time issuer disclosures.

Each issuer reporting under section 13(a) or 15(d) shall disclose to the public on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the issuer, in plain English, which may include trend and qualitative information and graphic presentations, as the SEC determines, by rule, is necessary or useful for the protection of investors and in the public interest.

TITLE V--ANALYST CONFLICTS OF INTEREST**Sec. 501. Treatment of securities analysts by registered securities associations and national securities exchanges.**

TITLE VI--COMMISSION RESOURCES AND AUTHORITY

Sec. 601. Authorization of appropriations.

Authorizes appropriations for the Securities and Exchange Commission for fiscal year 2003, including: \$98,000,000 to add not fewer than an additional 200 qualified professionals to provide enhanced oversight of auditors and audit services required by the Federal securities laws, and to improve SEC investigative and disciplinary efforts with respect to such auditors and services, as well as for additional professional support staff necessary to strengthen the programs of the SEC involving Full Disclosure and Prevention and Suppression of Fraud, risk management, industry technology review, compliance, inspections, examinations, market regulation, and investment management.

Sec. 602. Appearance and practice before the Commission.

Sec. 603. Federal court authority to impose penny stock bars.

Sec. 604. Qualifications of associated persons of brokers and dealers.

TITLE VII--STUDIES AND REPORTS

Sec. 701. GAO study and report regarding consolidation of public accounting firms.

Sec. 702. Commission study and report regarding credit rating agencies.

Sec. 703. Study and report on violators and violations

Sec. 704. Study of enforcement actions.

Sec. 705. Study of investment banks.

TITLE VIII--CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

Sec. 801. Short title.

Sec. 802. Criminal penalties for altering documents.

Sec. 803. Debts nondischargeable if incurred in violation of securities fraud laws.

Sec. 804. Statute of limitations for securities fraud.

Sec. 805. Review of Federal Sentencing Guidelines for obstruction of justice and extensive criminal fraud.

Sec. 806. Protection for employees of publicly traded companies who provide evidence of fraud.

Sec. 807. Criminal penalties for defrauding shareholders of publicly traded companies.

TITLE IX--WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

Sec. 901. Short title.

Sec. 902. Attempts and conspiracies to commit criminal fraud offenses.

Sec. 903. Criminal penalties for mail and wire fraud.

Sec. 904. Criminal penalties for violations of the Employee Retirement Income Security Act of 1974.

Sec. 905. Amendment to sentencing guidelines relating to certain white-collar offenses.

Sec. 906. Corporate responsibility for financial reports.

TITLE X--CORPORATE TAX RETURNS

Sec. 1001. Sense of the Senate regarding the signing of corporate tax returns by chief executive officers.

TITLE XI—CORPORATE FRAUD AND ACCOUNTABILITY

Sec. 1101. Short title.

Sec. 1102. Tampering with a record or otherwise impeding an official proceeding.

Sec. 1103. Temporary freeze authority for the Securities and Exchange Commission.

Sec. 1104. Amendment to the Federal Sentencing Guidelines.

Sec. 1105. Authority of the Commission to prohibit persons from serving as officers or directors.

Sec. 1106. Increased criminal penalties under Securities Exchange Act of 1934.

Sec. 1107. Retaliation against informants.