SOX Exemption Extended

By Anique Gonzalez

In recent weeks, the House of Representatives has demonstrated its desire for the Securities and Exchange Commission to further postpone internal regulations associated with the Sarbanes-Oxley Act, most clearly by voting to prolong the exemption of small businesses through 2008. It should be noted that businesses with less than $75 million in market capitalization fall into the small-company category.

Since its inception in 2002, the Sarbanes-Oxley Act has generated controversy. Initially developed to combat the increasing number of corporate/accounting scandals, including Enron and Tyco, and to appease American consumers, the act raised standards for the accountability of public companies. Comprised of 11 sections, the act puts forth a range of requirements such as internal control assessments and enhanced financial disclosure that aim to more successfully regulate corporate activities. Proponents believe the act creates necessary regulations that help protect consumers; challengers say it economically inhibits companies.

Backed by Representatives Scott Garrett of New Jersey and Tom Feeney of Florida, the amendment extending the exemption was incorporated into the Finance Appropriations and Government Appropriations Act of 2008, which determines the funds allocated for various services and government activities during 2008.

In response to the amendment's passage, Garrett said, "I am pleased that so many of my colleagues joined me in helping small businesses this evening. This victory will keep small business from straining under the burden of the SOX Section 404 requirement through the end of fiscal year 2008."

SOX Section 404 compliance has been a difficult and pricey task for major companies, which are required to provide reports on their financial activities. If it has been arduous for large companies, it will be even more difficult for smaller, less-established businesses. This is one reason Reps. Garrett and Feeney wanted to impede the application of this law to small companies.

However, the chairman of the SEC, Christopher Cox, maintained that the actions taken by Congress were superfluous since the SEC recently approved measures that would decrease

continued on back

compliance costs. Among these measures are the SEC guidance for management and the recently established Public Company Accounting Oversight Board.

Various organizations weighed in on the subject, very quickly taking sides. The Council of Institutional Investors, the AARP, and several consumer groups such as Consumer Action forcefully opposed the amendment. Supporters included the Chamber of Commerce, the National Taxpayers Union, and Citizens Against Government Waste.

Of course, the next step will take place in the Senate. Whether the amendment will be approved, however, has yet to be determined. In addition to the SOX amendment, there is another bill regarding small businesses currently being mulled over in Congress that, according to backers Gregory Meeks and Vito Fossella, aims to increase the competitiveness of the United States. Meeks and Fossella argued that the United States will be able to more readily contend with competitors by allowing small businesses to list on the NYSE, the American Stock Exchange, and the NASDAQ Stock Market. Small companies that are presently unable to list on American stock exchanges may be forced to list on competing stock exchanges in other countries.

In a statement, Fossella said, “This legislation would help ensure an even playing field for all domestic exchanges to compete in a global marketplace. It would also enhance investor protection by strengthening oversight of these companies.”

According to the provisions of the bill, the smaller companies would be regulated by the SEC, state policies, and the Sarbanes-Oxley Act.

ON THE NET

House of Representatives
www.house.gov

U.S. Securities and Exchange Commission
www.sec.gov

New York Stock Exchange
www.nyse.com