

ONE HUNDRED TENTH CONGRESS  
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**House of Representatives**  
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## ***THE COMPETITIVE EDGE***

Every day, Americans work hard to build businesses and create jobs that compete effectively with, and take advantage of, the global marketplace. These Americans have one question for their government: Are you here to help us or hurt us?

Each week *The Competitive Edge* will highlight one government policy or practice that makes it harder for American innovators to succeed. This week's topic is the **Sarbanes-Oxley Act**.

### **The Problem:**

In 2002, Congress passed the Sarbanes-Oxley Act (SOX) in response to numerous corporate scandals. Members of Congress have since discovered numerous unintended consequences of the legislation. According to testimony at Congressional hearings, the law has brought \$35 billion in direct costs and up to \$1.4 trillion in indirect costs to the economy. Money spent complying with Sarbanes-Oxley is money that can't be spent innovating and producing more and better goods that add value to the economy.

Sarbanes-Oxley places American capital markets at a huge competitive disadvantage. London now advertises itself as a "Sarbanes-Oxley-free zone." Numerous companies have either dropped their U.S. registration or simply listed their companies overseas.

*The Wall Street Journal* reported that "in 2005, the last year for which complete data was available . . . none of the Top 10 listings occurred on an American exchange, and 22 of the top 25 listings occurred outside the U.S. In addition, 2005 saw 129 major new listings overseas, compared to only six for the New York Stock Exchange and 14 for the NASDAQ."

## **The Solution:**

This May, the Securities and Exchange Commission approved new regulations designed to reduce wasteful and duplicative compliance mandates. The Public Company Accounting Oversight Board (PCAOB) also issued revised accounting standards (AS-5) designed to better identify material weaknesses in internal controls yet decrease unnecessary procedures. By clarifying the regulatory interpretation of Section 404 of SOX and introducing a risk-based compliance framework, the new rules should restore a proper balance between the disclosure- and transparency-enhancing aspects of Sarbanes-Oxley and the need to minimize regulatory burden and compliance costs.

But there still may be a need for Congressional action to address ongoing concerns. For example, Congress should examine the impact of the legal liability currently imposed on outside auditors. The current framework promotes overzealous auditing practices to protect against class-action lawsuits. Also, there is mounting empirical evidence U.S. markets have suffered reputation damage, which discourages both domestic and foreign companies from listing on U.S. exchanges. If we do not observe a change in the trend of domestic and international IPOs, Congress should consider actions that would correct this damaging perception. It's in Americans' interest that the companies of the world do business in our markets, interact with our regulators and take our interest in preventing bad practices.

## **Why It Matters:**

“Forcing companies to spend more than \$4 million a year to comply with a single regulation is not a productive use of American resources,” said Rep. Tom Davis, ranking member of the House Committee on Oversight and Government Reform. “Companies should be able to direct these substantial resources into capital formation, employee benefits and salaries, or even stock dividends. Moreover, the largest potential cost of Section 404 has yet to be quantified -- the loss of opportunities for the American public to invest in small and innovative firms that have either de-listed, gone dark or declined to go public.”

It's time for the federal government to work FOR American workers – not against them.

**About the Competitive Edge:** The Competitive Edge is a weekly bulletin produced by the House Committee on Oversight and Government Reform. If this bulletin was forwarded to you, and you'd like to sign up to receive *The Competitive Edge* each week you can email us at [Reform@mail.house.gov](mailto:Reform@mail.house.gov).