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United States General Accounting Office
Washington, DC 20548

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February 19, 2003

The Honorable Richard C. Shelby
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Michael G. Oxley
Chairman
The Honorable Barney Frank
Ranking Minority Member
Committee on Financial Services
House of Representatives

Subject: *Securities and Exchange Commission: Strengthening the Commission's Requirements Regarding Auditor Independence*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (SEC), entitled "Strengthening the Commission's Requirements Regarding Auditor Independence" (RIN: 3235-AI73). We received the rule on January 29, 2003. It was published in the Federal Register as a final rule on February 5, 2003. 68 Fed. Reg. 6006.

The final rule amends the SEC's requirements regarding auditor independence to enhance the independence of accountants that audit and review financial statements and prepare attestation reports filed with the SEC. The final rule implements section 208 of the Sarbanes-Oxley Act of 2002 (Pub. L. 107-204).

Enclosed is our assessment of the SEC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the SEC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Thomas McCool,

Managing Director, Financial Markets and Community Investments. Mr. McCool can be reached at (202) 512-8678.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Jill Peterson
Assistant Secretary
Securities and Exchange Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
"STRENGTHENING THE COMMISSION'S REQUIREMENTS
REGARDING AUDITOR INDEPENDENCE"
(RIN: 3235-AI73)

(i) Cost-benefit analysis

The SEC considered the costs and benefits of the final rule. The SEC states that many of the costs are difficult to quantify and no specific cost figures were cited by commenters on the final rule. However, SEC expects the benefits of the final rule to be increased investor confidence. SEC notes that additional costs will be incurred by public companies in having to use a separate vendor for certain services. Also, accounting firms may lose one or more sources of income because they will no longer be able to sell certain non-audit services to their audit clients.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The SEC prepared an Initial and Final Regulatory Flexibility Analysis in connection with the proposed and final rules, respectively. The analyses meet the informational requirements of the Act.

In an attempt to lessen the burden on small entities, the SEC has exempted firms with fewer than five audit clients and fewer than 10 partners from the partner rotation and compensation provisions.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the SEC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On December 13, 2002, the SEC published a Notice of Proposed Rulemaking in the Federal Register. 67 Fed. Reg. 76779. In the preamble to the final rule, the comments received are discussed.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. SEC listed the required information regarding the collections, including the hourly and cost burdens in the proposed rule. The eight collections have been approved by OMB and assigned OMB control numbers.

Statutory authorization for the rule

The final rule is promulgated under the under the authority contained in sections 7, 8, 10, 19, and 28 of the Securities Act; sections 3, 10A, 12, 13, 14, 17, 23, and 36 of the Exchange Act; sections 5, 10, 14, and 20 of the Public Utility Holding Company Act of 1935; sections 8, 30, 31, and 38 of the Investment Company Act of 1940; sections 203 and 211 of the Investment Advisors Act of 1940; and sections 3(a) and 208 of the Sarbanes-Oxley Act.

Executive Order No. 12866

As the rule was promulgated by an independent regulatory agency, it is not subject to the review requirements of the order.