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## United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP  
WASHINGTON, DC 20510-6350

May 8, 2007

The Honorable Christopher Cox  
Chairman  
Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, D.C. 20549

The Honorable Mark W. Olson  
Chairman  
Public Company Accounting Oversight Board  
1666 K Street, N.W.  
Washington, D.C. 20006

Dear Chairmen Cox and Olson:

Thank you for your testimony at the April 18<sup>th</sup> hearing of the Committee on Small Business and Entrepreneurship concerning the Sarbanes-Oxley Act of 2002 (the Act). We look forward to the final, harmonized internal controls rules for management and auditors which the U.S. Securities and Exchange Commission (SEC) and the Public Company Accounting Oversight Board (PCAOB) are scheduled to issue this summer. We have been carefully monitoring how the proposed rules would impact the ability of small public companies to comply with the Act's investor protections and internal controls requirements. As you finalize these rules, we would like to bring to your attention some specific issues, raised during the Committee hearing, that we believe are critical to assisting small public companies comply with the law.

We appreciate the support and assistance the SEC and the PCAOB provide to our nation's small public companies, which are the cornerstone of our entrepreneurial economy. We strongly support Section 404 of the Act on internal controls, which increases the transparency of public companies' corporate governance. We know that strong internal controls protect shareholders and encourage confidence in capital markets. This fact is evidenced in the declining number of financial restatements issued by large firms that are now complying with the law.

Small public companies are willing to comply with the Act's new internal controls regulations. However, properly implementing and calibrating internal controls requires time and repetition. We remain convinced that small companies need appropriate time to evaluate and adjust for any weaknesses they find in their daily, monthly, quarterly, and annual internal controls. Specifically, we are concerned that small public companies will not have sufficient time to remedy any difficulties they encounter during their first

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assessment of yearly internal controls if the final rules require them to immediately furnish their management assessment to the SEC.

At our recent Committee hearing on Sarbanes-Oxley issues, Mr. Joseph Venebles, CEO of Benjamin Franklin Bank, of Franklin Massachusetts, testified that during the initial rush to implement the new internal controls requirements, there may be a severe shortage of qualified accounting, consultant, and internal control professionals available to help small companies comply with the law. It is our understanding that a similar shortage of accounting professionals occurred in 2004, when accelerated filers were first required to comply with internal controls regulations. This year, the limited number of qualified professionals available to help with implementation, and the limited time table for completing these requirements, could significantly drive up the cost of consulting and accounting services. This would undermine the cost savings that the SEC and the PCAOB have worked hard to create in the proposed rules.

Consequently, we again urge the SEC to postpone the implementation date for non-accelerated filers for up to one year after the final rules are issued. We urge the SEC to publicly announce this extension as soon as possible. This extension would allow companies to properly design and test internal controls measures, make adjustments for any difficulties found in their year-end processes, and lengthen the time-frame accounting professionals and company employees have to correctly calibrate their internal controls. Ultimately, this would make it easier for small public companies to make the transition to the new internal controls regime.

Additionally, the SEC should fully assess the cost of both the SEC's and PCAOB's new rules under the Regulatory Flexibility Act upon publication of the final rule and prior to the rule becoming effective. The SEC should also publish a small business compliance guide to assist small companies in implementing these new internal controls requirements. These measures will help to ensure that small public companies do not suffer from additional unintended consequences which harm their ability to compete, innovate, and grow. We also urge the PCAOB to carefully monitor auditors to make sure the final rules are implemented appropriately and do not impose an undue and unnecessary burden on small public companies beyond what is required to comply with the law.

Finally, as the rules are finalized and smaller public companies take the necessary steps to comply with the law, there are bound to be questions, concerns, and unintended consequences surrounding implementation. We believe it would be of great assistance if the SEC's Advisory Committee on Smaller Public Companies would report regularly on

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the impact of Section 404, as well as how the financial burden of compliance with the Sarbanes-Oxley Act may be lessened within the construct of the law. Additionally, we understand that the SEC may have the ability to raise the outdated shareholder threshold for securities registration. This level has not been adjusted for nearly 40 years and does not reflect the dramatic increase in the number of Americans who now own stock. We would appreciate any appropriate action by the SEC to make adjustments to this threshold.

Thank you in advance for your consideration of our requests.

Sincerely,



JOHN F. KERRY  
Chair



OLYMPIA J. SNOWE  
Ranking Member