



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 9, 2002
(Senate)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

S. 2673 - Public Company Accounting Reform and Investor Protection Act of 2002

(Sen. Sarbanes (D) Maryland)

The Administration supports the goals of S. 2673, particularly the need to improve the quality of independent audits and financial reporting and to ensure meaningful accountability by executives of public companies.

As a result of the President's call to action in his *Ten-Point Plan to Improve Corporate Responsibility and Protect America's Shareholders*, the Securities and Exchange Commission (SEC) is pursuing far-reaching reforms that will result in the most significant changes in corporate behavior in decades. In this context, the Administration supports legislation consistent with the *Ten-Point Plan*. The Administration believes that S. 2673 needs to be improved in certain important respects to meet this standard.

S. 2673 does not include the key legislative action that the President called for in the *Ten-Point Plan*. The Senate bill should provide the SEC with the administrative authority to bar individuals found to have engaged in serious misconduct from serving as officers and directors of any public company. The SEC needs this new authority to punish those that have committed serious misconduct and proven themselves unworthy of serving the best interests of shareholders. S. 2673 provides a far weaker remedy for wrongdoing. It would continue to require the SEC to expend significant time and resources in order to attempt to gain similar relief in the Federal courts.

The Administration is also concerned about provisions of S. 2673 that purport to assign significant governmental authority to a new regulatory board without clear definition of the authority, clear control of the exercise of that authority by responsible officers of the government, and appropriate confidentiality to the protect the rights of Americans.

The Administration believes that a two-tiered regulatory framework is necessary to protect investors. As recently promulgated by the SEC, a newly-established independent accounting oversight board should set, oversee and enforce professional audit, quality control and ethics standards. The Administration believes that the SEC should not delegate the responsibility to investigate and enforce violations of the securities laws to an accounting board. S. 2673 would create duplicative and competing authority between the board and the SEC, jeopardizing rigorous enforcement of legal and professional standards. The Administration believes that clearer lines of authority are necessary to

ensure that the board and SEC are each accountable.

The SEC should fully supervise the new regulatory board. The Administration believes that meaningful SEC oversight is critical to maximize the benefits of complementary regulation, and to ensure fairness and efficiency in the board's regulation of the accounting profession. S. 2673 should be revised so that all significant board powers are subject to review and modification by the SEC. The Administration believes that the bill should be clarified to ensure that the SEC is able to monitor the board's activities as it deems necessary, including in the areas of auditor registration, rule-making, inspections and disciplinary proceedings.

The regulatory board should maintain appropriate confidentiality procedures for information obtained during inspections and investigations relating to the conduct of accounting firms. The Administration believes that the confidentiality provisions of S. 2673 should be clarified to ensure that information gathered during the course of board investigations is subject to no less stringent confidentiality protections than if the information were gathered directly by the SEC. The construct of S. 2763 threatens to result in an uneven, inequitable distribution of disclosures and penalties for similar conduct.

Finally, the Administration is concerned that the bill rigidly defines accounting services boundaries by statute without reference to the size and needs of public companies in a rapidly changing marketplace.

The Administration looks forward to expeditious Senate consideration of S. 2763 so that Congress, working with the Administration, can produce a final bill to reform corporate disclosure and accountability practices this year.
