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File Number 4-511
Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Dear Sirs:

While the intentions of Sarbanes-Oxley are good, it has been extremely burdensome and costly to American business. Since your office is seeking written feedback on real life experiences with Section 404, I would like to provide you with some thoughts.

1. First, everybody out in "the field" knows that the Accounting scandals that brought about the fall of Enron, World Com, etc. were the result of a lack of control "at the top". Perhaps **if we focused our efforts on the controls in place at the CFO and CEO level, we could eliminate much of the costly burden of compliance**. i.e. why spend the time and effort on internal controls over a lowly Accounts Payable Clerk, when the scandals were all committed by CEOs and CFOs ("at the top").

2. Secondly, even if you do not agree with the above, there must be a way to "**Pareto**" this (i.e. to employ the 80/20 rule that serves management so well in other areas of business).

Food for thought…

Respectfully Submitted,

Daniel J. Leo, CPA, CMA, CIA

Alan Levinsohn, Editor

First-Year Verdict of SOX 404: Burdensome, Costly, and Confusing

Now that most public companies have completed their compliance with Section 404 of the Sarbanes-Oxley Act, the feds concede that it's too onerous and say they'll make the rules easier.

During a packed roundtable meeting of financial managers, audit committee members, external auditors, investors, analysts, and regulators at the Securities & Exchange Commission (SEC) headquarters on April 13, William Donaldson, chairman of the SEC, and William McDonough, chairman of the Public Company Accounting Oversight Board (PCAOB), acknowledged that Section 404 has some unintended burdens. According to a report from Pricewaterhouse-Coopers, the burdens are significant costs, confusion about applying judgment, and duplicative efforts by management and auditors.

McDonough promised that the PCAOB would provide some guidance on applying Auditing Standard No. 2 (AS No. 2), "An Audit of Internal Control Over Financial Reporting Performed in Conjunction with an Audit of Financial Statements." This is the standard that, under Section 404, external auditors use to attest to and report on management's assessment of the adequacy of a company's internal controls. McDonough also said the PCAOB would consider reopening the rule if the guidance didn't provide enough help.

For his part, Donaldson said, "I would be very disappointed if we didn't find some things we could do."

Panelists told regulators that many auditors aren't flexible about what types of problems to disclose, according to a report from *The Wall Street Journal*. They also said auditors are forcing companies to disclose issues that aren't germane to financial reporting, and they complained that auditors are second guessing management's judgment about how to document internal controls. Yet accounting firms, fearful of regulatory scrutiny, are applying rigid interpretations of the rules.

Others voiced concern that SOX is a distraction for senior managers and gives investors a false sense of security. Executives commented that they're less comfortable soliciting technical advice from external auditors for fear of receiving critical internal control assessments. Some executives said they're not entirely sure what constitutes a "material weakness" of internal controls, while others questioned how well investors can identify the

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severity of material weaknesses when so many are being disclosed.

By early May, 160 companies out of 1,864 in the Russell 3000 index had received an adverse opinion from their public accountants because of material weaknesses in their internal controls. The data, culled by Raisch Financial Information Services and published in *Compliance*