

# CORPORATE REGULATORY COMPLIANCE AND INTERNATIONAL COMPETITION: CURRENT ISSUES

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## ABSTRACT

Much has changed since the passage of the Sarbanes Oxley Act of 2002. Provisions of the Act mandated changes aimed at improving corporate governance with the goal of protecting investors, corporate stakeholders and the U.S. financial markets, particularly with an eye to preventing Enron-style financial debacles. Since its inception, the act has been widely disparaged as a drag on U.S. Capital Markets. Studies, panels, regulators and special commissions have pointed to SOX-related costs and reporting burdens and tied them to changes in U.S. public equities markets and to increased corporate legal liabilities. Calls for reducing SOX-related burdens for all public companies and/or for a subset of smaller public companies have been common. Alternate means of reducing the financial and reporting burdens that affect competitiveness across international boundaries are also under consideration. Primary examples are movements toward the global harmonization of accounting standards. Prominent examples include proposals by the US Securities and Exchange Commission to eliminate requirements for foreign public issuers to supply a reconciliation to US GAAP if they provide their financial information in conformance with International Financial Reporting Standards (IFRS), and another to allow US public issuers the choice of using IFRS in place of US GAAP.

With regard to SOX, some evidence indicates that the benefits of SOX implementation, particularly of Section 404's requirements for improved quality and documentation of internal controls has produced improvements and many benefits in corporate governance. These benefits include stronger control systems, but also increased scrutiny resulting in increased efficiency of corporate processes, increased stakeholder confidence, sharing of SOX-initiated "best practices" relating to audit committees and audits, whistleblower protection, document retention policies, and strengthening of organizational culture. One result of this is that many organizations that are either not, or not yet, subject to SOX provisions such as non-profits, non-U.S. firms, non-public companies and smaller public companies, have begun to adopt and implement SOX provisions on a voluntary basis. Despite claims that the expense of SOX requirements and compliance has priced foreign firms out of the US capital markets, others point out that SOX-like provisions are being voluntarily adopted around the world.

One group of voluntary adopters of SOX, particularly Section 404, is that set of companies that intends to mount an initial public offering in the foreseeable future. Others, however, have less specific motives that seem to be based primarily on improved corporate governance, or improved shareholder confidence. Many of the arguments that have been put forward by those who would like to see SOX-related regulation weakened, pulled back, or stopped have been countered by global developments and evidence that corporate leaders are embracing many of those changes and making them a part of their governance systems just to reap the benefits they provide, and to remain competitive with those who are doing the same.

The objective of this paper is to examine evidence relating to these issues, regulatory phenomena and related issues as they make themselves known in 2007 and into 2008.