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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Report	Notes from Bob Collender on Basel Accord	4	N.D.	P5;
002	Report	International Implications of Sarbanes-Oxley	4	09/05/2002	P5;
003	Report	Notes from SEC Chairman Pitt's Speech at the Conference...	2	10/10/2002	P5;
004	Speech	Speech by SEC Chairman...	10	10/29/2002	P5;
005	Report	[Report]	2	08/2002	P1/b1; P5;

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Corporate Governance Briefing Book: Summer/Fall 2002 [2]
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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
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Comparison of NASDAQ Rule Proposals to the Sarbanes-Oxley Act of 2002

NASDAQ Proposed Rules	Sarbanes-Oxley Act Provisions Applicable to NASDAQ Proposed Rules
Stock Options	
(1) Require shareholder approval for the adoption of all stock option plans and for any material modification of such plans.	Not applicable.
Increase Board Independence	
(2) Require a majority of independent directors on the board. [Not applicable to "controlled" companies.]	Not applicable.
(3) Require regularly convened executive sessions of the independent directors.	Not applicable.
(4) Require that a company's audit committee or a comparable body of the board of directors review and approve all related-party transactions.	Not applicable.
(5) Prohibit an independent director from receiving any payments (including political contributions) in excess of $60,000 other than for board service and extend such prohibition to the receipt of payments by a non-employee family member of the director. [An audit committee member may not receive any compensation except for board or committee service, in accordance with the Act.]	§301 *Independence - Criteria*: In order to be independent, an audit committee member may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting advisory, or other compensatory fee from the issuer.
(6) Prohibit a director from being considered independent if the company makes payments to a charity where the director is an executive officer and such payments exceed the greater of $200,000 or five percent of either the company's or the charity's gross revenues. [Each member of the audit committee must meet the requirements of the Act in addition to NASDAQ's requirements.]	§301 *Independence - Criteria*: In order to be independent, an audit committee member may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee (i) accept any consulting advisory, or other compensatory fee from the issuer or (ii) be an affiliated person of the issuer or any subsidiary thereof.
(7) Provide that *any* relative of an executive officer of an issuer or its affiliates will not be considered independent. [Each member of the audit committee must meet the requirements of the Act in addition to NASDAQ's requirements.]	§301 *Independence - Criteria*: In order to be independent, an audit committee member may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, be an affiliated person of the issuer or any subsidiary thereof.

(8) Prohibit former partners or employees of the outside auditors who worked on a company's audit engagement from being deemed independent. [Each member of the audit committee must meet the requirements of the Act in addition to NASDAQ's requirements.]	§206 *Conflicts of Interest*: It shall be unlawful for a registered public accounting firm to perform for an issuer any audit service required by Title II, if a chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for the issuer, was employed by that registered independent public accounting firm and participated in any capacity in the audit of that issuer during the 1-year period preceding the date of the initiation of the audit.
(9) Apply a three-year "cooling off" period to directors who are not independent due to: (1) interlocking compensation committees; (2) the receipt by the director or a family member of the director of any payments in excess of $60,000 other than for board service; or (3) having worked on the company's audit engagement.	Not applicable.
Strengthen the role of independent directors in compensation and nomination decisions	
(10) Require independent director approval of director nominations, either by an independent nominating committee or by a majority of the independent directors. A single non-independent director would be permitted to serve on an independent nominating committee: (a) if the individual is an officer who owns or controls more than 20% of the issuer's voting securities, or (b) pursuant to an "exceptional and limited circumstance" exception. [Not applicable to "controlled" companies.]	Not applicable.
(11) Require independent director approval of executive officer compensation, either by an independent compensation committee or by a majority of the independent directors meeting in executive session. The CEO may be present at compensation committee meetings determining other Section 16 officers' compensation. A single non-independent director would be permitted to serve on the compensation committee pursuant to an "exceptional and limited circumstances" exception. [Not applicable to "controlled" companies.]	Not applicable.

Empower Audit Committees	
(12) Require that audit committees have the sole authority to appoint, compensate and oversee the outside auditors.	§301 *Responsibilities Relating to Registered Public Accounting Firms*: The audit committee shall be directly responsible for the appointment, compensation, and oversight of the work of the outside auditors (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work, and the outside auditors shall report directly to the audit committee. §301 *Funding*. Each issuer shall provide for appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation (A) to the registered public accounting firm employed by the issuer for the purpose of rendering or issuing an audit report and (B) to any advisers employed by the audit committee.
(13) Require that audit committees approve, in advance, the provision by the auditor of all permissible non-audit services, as set forth in the Act.	§201(a) *Prohibited Activities*: It shall be unlawful for outside auditors to contemporaneously provide audit services and any non-audit service, including: 1- bookkeeping or other services related to the accounting records or financial statements of the audit client, 2- financial information systems design and implementation, 3- appraisal or valuation services, fairness opinions, or contribution-in-kind reports, 4- actuarial services, 5- internal audit outsourcing services, 6- management functions or human resources, 7- broker or dealer, investment adviser, or investment banking services, 8- legal services and expert services unrelated to the audit, and 9- any other service that the Public Company Accounting Oversight Board (the "Oversight Board") determines, by regulation is impermissible. *Preapproval Required for Non-Audit Services*: Outside auditors may engage in any non-audit services, including tax services, that is not described in paragraphs (1) – (9) above, only if

	preapproved by the audit committee in accordance with §202. §201(b) *Exemption Authority*: The Oversight Board may grant exemptions to §201(a). §202 *Preapproval Requirements*: All auditing and non-audit services shall be preapproved by the audit committee, subject to a *de minimus* exception for non-audit services amounting to less than 5% of the fees paid to the outside auditors if the non-audit services were not recognized by the issuer to be non-audit services at the time of engagement and such services are promptly brought to the audit committee's attention and approved prior to the completion of the audit by the audit committee. Approval by the audit committee of non-audit services shall be disclosed to investors in SEC periodic reports.
(14) Require that audit committees have the authority to engage and determine funding for independent counsel and other advisers, as set forth in the Act.	§301 *Authority to Engage Advisers*: Each audit committee shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties. §301 *Funding*. Each issuer shall provide for appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation (A) to the registered public accounting firm employed by the issuer for the purpose of rendering or issuing an audit report and (B) to any advisers employed by the audit committee.
(15) Require that audit committees establish procedures for complaints, as set forth in the Act.	§301 *Complaints*. Each audit committee shall establish procedures for: (A) the receipt, retention, and treatment of complaints received by the issuer regarding accounting, internal accounting controls or auditing matters and (B) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.
(16) Prohibit audit committee members from being considered independent if they are an affiliated person of the issuer or any subsidiary, as set forth in the Act.	§301 *Independence - Criteria*: In order to be independent, an audit committee member may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee (i) accept any consulting advisory, or other compensatory fee

	from the issuer or (ii) be an affiliated person of the issuer or any subsidiary thereof.
(17) Prohibit audit committee members from receiving any non-director compensation, as set forth in the Act.	§301 *Independence - Criteria*: In order to be independent, an audit committee member may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee (i) accept any consulting advisory, or other compensatory fee from the issuer or (ii) be an affiliated person of the issuer or any subsidiary thereof.
(18) Provide that an audit committee member owning or controlling 20% or more of the company's voting securities will not be considered independent.	§301 *Independence - Criteria*: In order to be independent, an audit committee member may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee (i) accept any consulting advisory, or other compensatory fee from the issuer or (ii) be an affiliated person of the issuer or any subsidiary thereof.
(19) Require that all audit committee members be able to read and understand financial statements at the time of their appointment rather than "within a reasonable period of time" thereafter.	Not applicable.
(20) Require that in selecting the financial expert required on the audit committee, the issuer must consider whether such person has, through education and experience as a public accountant or auditor or a principal financial officer, comptroller or principal accounting officer of an issuer or from a position involving the performance of similar functions, sufficient financial expertise in the accounting and auditing areas specified in the Act.	§407(a) *Disclosure of Audit Committee Financial Expert – Rules Defining "Financial Expert"*: The SEC shall issue rules requiring each issuer, together with SEC periodic reports, to disclose whether or not, and if not, the reasons therefore, the audit committee of that issuer is comprised of at least 1 member who is a financial expert as defined by the SEC. §407(b) *Disclosure of Audit Committee Financial Expert – Considerations*: In defining the term "financial expert," the SEC shall consider whether the person has, through education and experience as a public accountant or auditor or a principal financial officer, comptroller, or principal accounting officer of an issuer, or from a position involving the performance of similar functions (1) an understanding of generally accepted accounting principles and financial statements, (2) experience in (A) the preparation or auditing of financial statements of generally comparable issuers, and (B) the application of such principles in connection with the accounting

	for estimates, accruals, and reserves, (3) experience with internal accounting controls, and (4) an understanding of audit committee functions.
(21) Limit the time that a non-independent director, as defined under NASDAQ's rule 4200, may serve on the audit committee pursuant to "exceptional and limited circumstances" to two years, and prohibit that person from serving as the chair of the audit committee. All audit committee members, including those appointed pursuant to the "exceptional and limited circumstances" exception, must comply with the independence requirements of the Act.	§301 *Independence – In General*: Each member of the audit committee of the issuer shall be a member of the board of directors of the issuer, and shall otherwise be independent. *Criteria*: In order to be independent, an audit committee member may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee (i) accept any consulting advisory, or other compensatory fee from the issuer or (ii) be an affiliated person of the issuer or any subsidiary thereof. *Exemption Authority*: The SEC may exempt from the criteria of being considered independent a particular relationship with respect to audit committee members, as the SEC determines appropriate in light of the circumstances.
(22) Conform the audit committee requirements for issuers that file reports under SEC Regulation S-B to those of other issuers.	Not applicable. The Act does not differentiate between S-B and regular filers.
Mandate Director Continuing Education	
(23) Mandate continuing education for all directors, pursuant to rules to be developed by the NASDAQ Listing and Hearing Review Council and approved by the NASDAQ Board.	Not applicable.
Mandate Accelerated Disclosure of Insider Transactions	
(24) NASDAQ is continuing to explore a requirement for accelerated disclosure of insider transactions that would harmonize and reinforce the provisions of the Act.	§403 *Disclosures of Transactions Involving Management and Principal Stockholders*: Directors, officers and 10% or greater shareholders shall file Section 16 reports at the end of the 2nd business day of a transaction involving a change in equity ownership.
Provide Transparency With Respect to Non-U.S. Companies	
(25) Require that non-U.S. issuers disclose exemptions that are permissible under the Act or rules promulgated thereunder to NASDAQ's corporate governance requirements, at the time the	The Act does not exempt foreign issuers from the audit committee requirements.

exemption is received and on an annual basis thereafter, as well as any alternative measures taken in lieu of the waived requirements.	
(26) Require that non-U.S. issuers file with the SEC and NASDAQ all interim reports filed in their home country, and, at a minimum, file with the SEC and NASDAQ a semi-annual report.	Not applicable.
Conform and Clarify the Applicability of Certain Quantitative Listing Standards to Non-U.S. Companies	
(27) Require that non-U.S. issuers satisfy the SmallCap initial and continued listing requirements for bid price and market value of publicly held shares that are currently applicable to domestic issuers.	Not applicable.
(28) Require that the underlying shares of SmallCap issuers with listed ADRs satisfy the same publicly held shares and shareholder requirements that are applicable to domestic issuers.	Not applicable.
Codes of Conduct	
(29) Require all companies to have a code of conduct addressing, at a minimum, conflicts of interest and compliance with applicable laws, rules and regulations, with an appropriate compliance mechanism and disclosure of any waivers to executive officers and directors. Waivers can only be granted by independent directors. The code of conduct must be publicly available.	§406(a) *Code of Ethics Disclosure*: The SEC shall issue rules to require each issuer together with SEC periodic reports, to disclose whether or not, and if not, the reason therefore, such issuer has adopted a code of ethics for senior financial officers, applicable to its principal financial officer and comptroller or principal accounting officer, or persons performing similar functions. §406(b) *Changes in Code of Ethics*: The SEC shall revise its regulations concerning matters requiring prompt disclosure on Form 8-K to require the immediate disclosure, by means of filing of such form, dissemination by the Internet or by other electronic means, by any issuer of any change in or waiver of the code of ethics for senior financial officers. §406(c) *Definition*: The "code of ethics" means such standards as are reasonably necessary to promote (1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships, (2) full, fair, accurate, timely, and

	understandable disclosure in the periodic reports required to be filed by the issuer, and (3) compliance with applicable governmental rules and regulations.
Other Proposals	
(30) Harmonize the NASDAQ rule on the disclosure of material information with SEC Regulation FD.	Not applicable.
(31) Clarify that a material misrepresentation or omission by an issuer to NASDAQ may result in the company being delisted.	Not applicable.
(32) Require that a going concern qualification in an audit opinion be disclosed through the issuance of a press release.	Not applicable.
(33) Clarify that NASDAQ will presume that a change of control will occur, for purposes of the shareholder approval rules, once an investor acquires 20% of an issuer's outstanding voting power, unless a larger ownership and/or voting position is held on a post-transaction basis by unaffiliated investors.	Not applicable.
(34) Clarify the authority of NASDAQ to deny re-listing to an issuer based upon a corporate governance violation that occurred while that issuer's appeal of the delisting was pending.	Not applicable.
(35) Prohibit loans from issuers to officers or directors, as set forth in the Act.	§402 *Prohibition on Personal Loans to Executives*: It shall be unlawful for any issuer, directly or indirectly, including through any subsidiary, to extend or maintain credit, to arrange for extension of credit, or to renew an extension of credit, in the form of a personal loan to or for any director or executive officer of that issuer. [Exceptions permitted.]

Nasdaq Enforcement of Listing Standards

- The Listing Qualifications ("LQ") Department is responsible for assuring that all Nasdaq listed companies fully meet the quantitative and qualitative listing standards upon their initial listing and thereafter.
- The LQ Department has 61 employees, including six attorneys. The Department head has 28 years of experience as a securities regulator.
- Each of the approximately 3,800 listed companies is assigned to a listing analyst. Analysts are responsible for reviewing all (approximately 35,000 annually) documents filed with the SEC by these companies as part of our program to monitor on-going compliance with our listing standards.
- Analysts also coordinate with Nasdaq's MarketWatch Department, which is charged with monitoring real-time trading in Nasdaq securities and reviewing all press releases by Nasdaq issuers.
- Analysts are also responsible for responding to corporate governance inquiries from issuers. In the twelve months ended June 30, 2002, the Department responded to 225 requests for written interpretations and to countless telephone inquiries. This underscores the importance placed on corporate governance compliance by both Nasdaq and its issuers.
- To further support Nasdaq's regulatory program, the Listing Investigations Department was formed in 1997. Listing Investigations' principal functions involve scrutinizing disclosures and financial reports issued by listed companies and investigating conduct that raises public interest concerns such as alleged financial fraud, revenue recognition issues and other accounting irregularities. The Department's activities have led numerous issuers to issue corrected financial statements and contributed to over 80 delistings.
- Listing Investigations employs highly skilled investigators with significant experience in accounting, financial analysis and securities law. The Department head has 27 years of SEC experience, most recently as Associate Director of Enforcement. The staff also includes two former SEC Branch Chiefs and the former Chief Accountant for the SEC's Division of Enforcement.
- The Nasdaq enforcement program is very active. There were 755 regulatory delistings between January 2000 and June 2002. 93 of these were based solely on qualitative issues such as corporate governance violations, filing delinquencies or other public interest concerns (e.g., financial fraud, misleading disclosures or close association with individuals or entities with significant regulatory histories).
- In June 2002, the SEC's inspections group advised Nasdaq that its listing qualifications program was "operating in an effective and efficient manner."

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U.S. Securities and Exchange Commission

Commission Announces Founding Members of Public Company Accounting Oversight Board

FOR IMMEDIATE RELEASE
2002-153

Washington, D.C., October 24, 2002 — The Securities and Exchange Commission today announced the selection of Judge William H. Webster to be chairman, and Kayla J. Gillan, Daniel L. Goelzer, Willis D. Gradison Jr., and Charles D. Niemeier to be founding members of the Public Company Accounting Oversight Board.

The Board, established by the Sarbanes-Oxley Act of 2002, will oversee the audits of the financial statements of public companies through rigorous registration, standard setting, inspection and disciplinary programs. The Act requires the Commission, in consultation with the Secretary of Treasury and the Chairman of the Federal Reserve Board, to select the members of the Board.

The Commission received approximately 450 nominations and applications for the five available Board positions.

SEC Chairman Harvey L. Pitt said: "The individuals selected to serve on the Board clearly meet and exceed all the requirements in the Act - they are individuals of high integrity and reputation who have demonstrated a commitment to serving the interests of investors, and they understand the financial reporting process. They are each committed to meaningful reform. In addition, they bring to the Board a combination of investor advocacy, regulatory and legal experience. The Commission looks forward to working with the new Board members as they develop the Board's programs and begin operations."

"We have been pleased by the expressions of interest and willingness to serve on the Board," said Chief Accountant Robert K. Herdman. "Many prominent people of unquestioned integrity and ability were nominated for the Board, making the decision difficult but, at the same time, extremely rewarding. The President and Congress have set out an aggressive program for reform of the accounting profession, and the new Board's first task is to implement that program. Wisely, the Act also provides the Board with the ability to perceive the need for, and implement, even more reform."

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Biographical Notes

William H. Webster (Chairman, term to expire 2007) - Judge Webster's entire career reflects his commitment to public service and dedication to protecting the American public. Judge Webster served as U.S. Attorney for the Eastern District of Missouri, then as a U.S. District Court judge. He subsequently was elevated to the U.S. Court of Appeals for the Eighth Circuit. During his service on the bench, Judge Webster was Chairman of the Judiciary Conference Advisory Committee on the Criminal Rules and was a member of the Ad Hoc Committee on Habeas Corpus and the Committee of Court Administration. He resigned from the Court in 1978 to become the Director of the Federal Bureau of Investigation under President Jimmy Carter. In 1987, he was sworn in as the Director of Central Intelligence under President Ronald Reagan. In this position, he headed the Intelligence Community (which includes all foreign intelligence agencies of the United States) and directed the Central Intelligence Agency.

Since his departure from the CIA, Judge Webster has been asked many times, by many people and organizations, to examine the status quo and recommend reforms. The City of Los Angeles Police Commission called on Judge Webster after the riots in the early 1990s. He was appointed by IRS Commissioner Charles Rossotti to investigate allegations of taxpayer abuse of the IRS' Criminal Investigation Division. Most recently, Judge Webster was asked to investigate the security policies and procedures of the FBI following the discovery of Special Agent Robert Hanssen's espionage activity. As a member of the legal community, Judge Webster has served as Chairman of the American Bar Association's Corporation, Banking and Business Law Section. In 1997, the ABA asked Judge Webster to lead an examination of the "pay to play" practice of directing political contributions to elected officials to influence the award of municipal bond contracts.

Judge Webster is currently a partner in the international law firm Milbank, Tweed, Hadley & McCloy LLP, where he practices international corporate, banking, trade and administrative law and has led teams of Milbank attorneys conducting numerous internal investigations for the independent directors of several boards of directors of Fortune 500 companies. He has served on a number of audit committees, including Anheuser-Busch Companies Inc., Pinkerton Inc. and Maritz Inc.

Judge Webster has been highly praised for his integrity and commitment to public service. He has been recognized with many awards, including the 2002 American Bar Association Medal (the highest honor the ABA can bestow), the 2001 Justice Award of the American Judicature Society, the Presidential Medal of Freedom, the National Security Medal, and he is an Honorary Fellow of the American College of Trial Lawyers.

Daniel L. Goelzer (Term to expire 2006) - Goelzer served as the General Counsel of the Securities and Exchange Commission for more than seven years, making him the longest serving General Counsel in the history of the agency. During his tenure as General Counsel, Goelzer represented the SEC

and the interests of investors through the performance of duties in the areas of appellate litigation, rulemaking, and regulation of the securities markets. He has testified before Congress on these issues and assisted in drafting legislation. As both a lawyer and a Certified Public Accountant, he was a constant source of advice and counsel on legal, regulatory, and congressional issues pending before the Commission. Since leaving the Commission, Goelzer has been in the private practice of law, focusing on securities law and financial institution regulation. He is the author of several articles on matters related to corporate governance and the securities laws. Early in his career, Goelzer was a member of the audit staff of Touche Ross & Co.

Kayla J. Gillan (Term to expire 2005) - Gillan recently became the vice president of Independent Fiduciary Services, after serving six years as the chief legal adviser to the California Public Employees' Retirement System (CalPERS) and to its 13-member Board of Trustees. She drafted CalPERS' U.S. Corporate Governance Core Policies and Guidelines, a treatise on corporate governance practices, which is widely cited and has been incorporated within the national and international curriculum on this subject. Gillan interacts not only with corporate boards and executives, but also investment advisers and institutional investors, including pension, labor and mutual funds. She is a frequent speaker and author on corporate governance issues, and an active advocate for shareholder and investor interests.

Willis D. Gradison, Jr. (Term to expire 2004) - Gradison is a former nine-term Congressman from Ohio. While in Congress, he served as the Ranking Member of the House Budget Committee and as the Ranking Member on the Health Subcommittee of the House Ways and Means Committee. Prior to entering Congress, Gradison served as an Assistant to the Secretary of Health, Education and Welfare, an Under Secretary of the Treasury, and Mayor of Cincinnati. He has been the Chairman of the Board of Directors of the Federal Home Loan Bank of Cincinnati, an investment broker and corporate director. Since leaving Congress, he has been president of the Health Insurance Association of America, a member of the audit committee for Project HOPE, and served on other charitable foundations. Gradison currently is the Senior Public Policy Counselor at Patton Boggs.

Charles D. Niemeier (Term to expire 2003) - Niemeier is the Chief Accountant in the Commission's Division of Enforcement and co-chairman of the Commission's Financial Fraud Task Force. In these roles, he coordinates, monitors and advises the Division staff as they conduct accounting and financial reporting investigations and initiate enforcement and disciplinary proceedings. Under his leadership, last year the Commission brought a record 160 financial fraud, reporting, and accounting cases, including cases involving misleading earnings press releases and misleading disclosures in the Management Discussion and Analysis (MD&A) sections of corporate reports. As both an attorney and a Certified Public Accountant, Niemeier has legal and public accounting experience dealing with complex accounting, auditing, and financial reporting issues.

http://www.sec.gov/news/press/2002-153.htm

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President's Ten-Point Plan

1. Each investor should have quarterly access to the information needed to judge a firm's financial performance, condition, and risks.
2. Each investor should have prompt access to critical information.
3. CEOs should personally vouch for the veracity, timeliness, and fairness of their companies' public disclosures, including their financial statements.
4. CEOs or other officers should not be allowed to profit from erroneous financial statements.
5. CEOs or other officers who clearly abuse their power should lose their right to serve in any corporate leadership positions.
6. Corporate leaders should be required to tell the public promptly whenever they buy or sell company stock for personal gain.
7. Investors should have complete confidence in the independence and integrity of companies' auditors.
8. An independent regulatory board should ensure that the accounting profession is held to the highest ethical standards.
9. The authors of accounting standards must be responsive to the needs of investors.
10. Firms' accounting systems should be compared with best practices, not simply against minimum standards.

- On July 9, 2002 the President called on Congress to give the Administration new powers to enforce corporate responsibility and to improve oversight of corporate America, including:
  - Tough new criminal penalties for mail and wire fraud
  - Strengthened laws to crack down on obstruction of justice
  - New authority for the SEC to freeze improper payments to corporate executives when a company is under investigation.

- Also on July 9, 2002, the President, by Executive Order, created the Corporate Fraud Task Force. Headed by Deputy Attorney General Larry Thompson, the Task Force includes, among others, US Attorneys, the FBI and SEC to oversee the investigation and prosecution of financial fraud, accounting fraud and other corporate criminal activity, and to provide enhanced inter-agency coordination of regulatory and criminal investigations.

- On July 30, the President signed the Sarbanes-Oxley Act of 2002, the most far-reaching reform of American business practices since the time of Franklin D. Roosevelt. The legislation included action on all of the President's proposals, and gave important new tools to prosecutors and regulators to improve corporate responsibility and protect America's shareholders and workers. Among other reforms, the legislation:
  - Created a new accounting oversight board to police the practices of the accounting profession
  - Strengthened auditor independence rules
  - Increased the accountability of officers and directors
  - Enhanced the timeliness and quality of financial reports of public companies
  - Barred insiders from selling stock during blackout periods when workers are unable to change their 401(k) plans.

- Since that time, substantial additional progress has been made to achieve each of the President's goals:
  - The Securities and Exchange Commission has hired 50 new personnel to help fulfill its mission to enforce the securities law. And significantly more help is on the way.
  - The SEC required the CEOs and CFOs of the largest 947 public companies to personally certify the accuracy and fairness of their companies' public filings through the prior fiscal year. The overwhelming majority of executives successfully filed their personal certifications. Going forward, all public filings will require CEO and CFO personal certifications. This should help restore accountability and responsibility to corporate suites and boardrooms.
  - Complementing the SEC's efforts, many corporations, investor groups and others in the private sector have responded to the President's call for reform by re-evaluating their own corporate governance practices. For example, at the President's urging, the New York Stock Exchange and NASDAQ have taken meaningful steps to revise their listing standards.

The Corporate Fraud Task Force's Record of Accomplishment

- The Justice Department, SEC and other Task Force members have aggressively responded to the President's call to action. Enron, Worldcom, Adelphia and ImClone are among the cases that are being overseen and directed by members of the Corporate Fraud Task Force.
- Since the Task Force was formed in July 2002, investigations have begun into more than a hundred new corporate fraud cases.
- More than 150 defendants have already been charged with civil and/or criminal wrongdoing.
- Convictions have been obtained or pleas are pending in 46 cases.
- Enhanced coordination among civil and criminal authorities is bringing about significant increases in "real-time enforcement."
- Since the Task Force was created, fully 90% of the prosecutions brought by DOJ for corporate fraud offenses were accomplished with the active assistance of SEC investigators and analysts.

Department of Justice Accomplishments

- Since the beginning of the Administration, the Department of Justice has initiated investigation into more than 400 matters involving possible corporate fraud – including falsification of corporate financial information, self-dealing by corporate insiders and obstruction of justice related to these offenses.
- During the same period, more than 500 defendants have been charged with corporate fraud-related offenses. Convictions have been obtained or pleas are pending in more than 200 cases.

SEC Accomplishments

- Fiscal year to date, the SEC has filed a record 156 actions for financial reporting and issuer disclosure violations, 51 percent higher than were filed in all of fiscal 2000.

- During this same period, the SEC has sought to throw 107 unfit officers and directors out of corporate boardrooms – almost 3 times the number that were sought in fiscal 2000. As the President stated in his Ten Point Plan in March, corporate officers and directors must assume personal responsibility for their companies' financial statements.
- The SEC is aggressively using its enforcement powers to make corporate wrongdoers accountable for their actions. During this fiscal year to-date, the SEC has sought to recover compensation, bonuses and stock options paid to 25 corporate wrongdoers – that is 39% more than in the prior fiscal year.
- The SEC has sought temporary restraining orders, seeking immediate relief to prevent irreparable harm to investors, in 47 cases since the start of this fiscal year, and has sought 57 asset freezes to prevent dissipation of assets that may be used to compensate defrauded investors. Both of these figures reflect more than a 30% increase over fiscal year 2001.

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	Notes from Bob Collender on Basel Accord	4	N.D.	P5;

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Kroszner, Randall (Randy) - Subject Files
FOLDER TITLE:
Corporate Governance Briefing Book: Summer/Fall 2002 [2]
FRC ID:
5789
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FOIA IDs and Segments:
2014-0373-F

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	International Implications of Sarbanes-Oxley	4	09/05/2002	P5;

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Sarbanes-Oxley (2002)

care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.

(d) REPORTING OF SANCTIONS.—

(1) RECIPIENTS.—If the Board imposes a disciplinary sanction, in accordance with this section, the Board shall report the sanction to—

(A) the Commission;

(B) any appropriate State regulatory authority or any foreign accountancy licensing board with which such firm or person is licensed or certified; and

(C) the public (once any stay on the imposition of such sanction has been lifted).

(2) CONTENTS.—The information reported under paragraph (1) shall include—

(A) the name of the sanctioned person;

(B) a description of the sanction and the basis for its imposition; and

(C) such other information as the Board deems appropriate.

(e) STAY OF SANCTIONS.—

(1) IN GENERAL.—Application to the Commission for review, or the institution by the Commission of review, of any disciplinary action of the Board shall operate as a stay of any such disciplinary action, unless and until the Commission orders (summarily or after notice and opportunity for hearing on the question of a stay, which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that no such stay shall continue to operate.

(2) EXPEDITED PROCEDURES.—The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of a stay pending review of any disciplinary action of the Board under this subsection.

SEC. 106. FOREIGN PUBLIC ACCOUNTING FIRMS.

(a) APPLICABILITY TO CERTAIN FOREIGN FIRMS.—

(1) IN GENERAL.—Any foreign public accounting firm that prepares or furnishes an audit report with respect to any issuer, shall be subject to this Act and the rules of the Board and the Commission issued under this Act, in the same manner and to the same extent as a public accounting firm that is organized and operates under the laws of the United States or any State, except that registration pursuant to section 102 shall not by itself provide a basis for subjecting such a foreign public accounting firm to the jurisdiction of the Federal or State courts, other than with respect to controversies between such firms and the Board.

(2) BOARD AUTHORITY.—The Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm

(or firms) for purposes of registration under, and oversight by the Board in accordance with, this title.

(b) PRODUCTION OF AUDIT WORKPAPERS.—

(1) CONSENT BY FOREIGN FIRMS.—If a foreign public accounting firm issues an opinion or otherwise performs material services upon which a registered public accounting firm relies in issuing all or part of any audit report or any opinion contained in an audit report, that foreign public accounting firm shall be deemed to have consented—

(A) to produce its audit workpapers for the Board or the Commission in connection with any investigation by either body with respect to that audit report; and

(B) to be subject to the jurisdiction of the courts of the United States for purposes of enforcement of any request for production of such workpapers.

(2) CONSENT BY DOMESTIC FIRMS.—A registered public accounting firm that relies upon the opinion of a foreign public accounting firm, as described in paragraph (1), shall be deemed—

(A) to have consented to supplying the audit workpapers of that foreign public accounting firm in response to a request for production by the Board or the Commission; and

(B) to have secured the agreement of that foreign public accounting firm to such production, as a condition of its reliance on the opinion of that foreign public accounting firm.

(c) EXEMPTION AUTHORITY.—The Commission, and the Board, subject to the approval of the Commission, may, by rule, regulation, or order, and as the Commission (or Board) determines necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions exempt any foreign public accounting firm, or any class of such firms, from any provision of this Act or the rules of the Board or the Commission issued under this Act.

(d) DEFINITION.—In this section, the term "foreign public accounting firm" means a public accounting firm that is organized and operates under the laws of a foreign government or political subdivision thereof.

SEC. 107. COMMISSION OVERSIGHT OF THE BOARD.

(a) GENERAL OVERSIGHT RESPONSIBILITY.—The Commission shall have oversight and enforcement authority over the Board, as provided in this Act. The provisions of section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)(1)), and of section 17(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(b)(1)) shall apply to the Board as fully as if the Board were a "registered securities association" for purposes of those sections 17(a)(1) and 17(b)(1).

(b) RULES OF THE BOARD.—

(1) DEFINITION.—In this section, the term "proposed rule" means any proposed rule of the Board, and any modification of any such rule.

(2) PRIOR APPROVAL REQUIRED.—No rule of the Board shall become effective without prior approval of the Commission in accordance with this section, other than as provided in section 103(a)(3)(B) with respect to initial or transitional standards.

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	Notes from SEC Chairman Pitt's Speech at the Conference...	2	10/10/2002	P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Speech	Speech by SEC Chairman...	10	10/29/2002	P5;

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Report	[Report]	2	08/2002	P1/b1; P5;

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Talking points from International Organization of Securities Commissions (IOSCO) Recent Announcements

Main point:

- *The IOSCO recently published principles to be followed by securities regulators in the areas of disclosure, auditor independence, and auditor oversight. The principles outlined match closely with those outlined in the President's Ten Point Plan and mandated by the Sarbanes-Oxley Act of 2002.*

- The IOSCO is a group of securities regulators which acts to create consensus standards of regulation. Structurally, the IOSCO has a Presidents' Committee, which is made up of Presidents or heads of securities regulatory bodies, regional committees and a technical committee.

- On October 18, 2002, the IOSCO released statements of general principles to guide securities regulators in dealing with three critical areas necessary for investor confidence in securities markets.

    - Disclosure
    - Auditor independence
    - Auditor oversight

- The principles outlined by IOSC documents match closely with those outlined in the President's Ten Point Plan and mandated by the Sarbanes-Oxley Act of 2002. While few specifics are presented, general guidelines include:

    - Disclosure: Provision of timely, accurate and thorough information is critical to allowing investors to make informed decisions. Some suggestions of timeliness are offered (using the US as example). Simultaneous disclosure for firms listed in multiple jurisdictions, timely and fair dissemination are examples of other topics addressed as issues of concern.

    - Auditor independence: Public confidence in financial reports depends largely on their views of auditors. Auditor independence and independent audit committees of boards of directors are important contributors to public confidence. Further, internal compliance systems are required within auditing firms.

    - Auditor oversight: effective oversight of the auditing profession and of independent audits is critical to the reliability and integrity of the financial reporting process. Some jurisdictions have attempted peer-on-peer review policies, which have largely failed. Oversight of auditors is performed by several agents, including management, audit committees, and public and private bodies. However, an *independent* public body is critical to oversee the quality of implementation of auditing, independence, ethical standards and quality control of audits.

Organisation internationale des commissions de valeurs
International Organization of Securities Commissions
Organización Internacional de Comisiones de Valores
Organização Internacional das Comissões de Valores

OICU-IOSCO

PRESS RELEASE

18 October 2002

The Technical Committee of the International Organization of Securities Commissions today issued statements of principles to guide securities regulators in dealing with three critical areas necessary for investor confidence in securities markets. The principles describe essential features of regulatory systems requiring (1) transparency and disclosure by listed entities; (2) the independence of external auditors; and (3) the need for public oversight of the audit function.

In announcing publication of these three important principles, the Technical Committee Chairman, Mr. David Knott, stated that "Investor confidence is fundamental to the successful operation of the world's financial markets. That confidence depends on investors having credible and reliable financial information when making decisions about capital allocation".

The approval of these key principles at the international level constitutes a specific response to some of the securities regulatory issues highlighted by the bankruptcy of Enron and other high-profile business failures around the world.

Information should be disclosed on a timely basis - whether in connection with an initial public offering or listing - periodically or continuously, and in a form or manner either prescribed by accounting standards, regulations, listing rules or law, together with the information that is provided by the management under the principles of fair presentation. The Technical Committee has therefore developed a set of complementary disclosure principles to the International Disclosures Standards adopted by the Organization

in September 1998.

Independent audits and effective oversight of the accounting profession are critical to the reliability and integrity of the financial reporting process.

The Technical Committee recognizes that, while regulations on auditor independence exist in many individual jurisdictions, these regulations may differ in approach, scope, terminology and substance. Accordingly, it has set forth principles relating to external auditor independence and the role played by the governance structure of an entity in monitoring and safeguarding the independence of its external auditor. The Technical Committee has also developed a list of general principles for oversight of audit firms and auditors, which audit financial statements of companies whose securities are publicly traded in the capital markets. Auditors should be subject to oversight by an independent body that acts and is perceived to act in the public interest.

IOSCO is a world-wide forum for securities regulators that promotes cooperation and high standards of regulation in order to maintain fair, efficient and sound markets. IOSCO currently regroups 171 members from more than 100 jurisdictions.

A copy of the following three papers can be downloaded from the IOSCO Internet Home Page (www.iosco.org) or obtained from the IOSCO General Secretariat:

1. Principles for Ongoing Disclosure ad Material Development Reporting by Listed Entities;
2. Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence;
3. Principles for Auditor Oversight.

For more information contact:

Mr. Philippe Richard
Secretary General

IOSCO

Tel: (3491) 417 55 49
Fax: (3491) 555 93 68
E-mail: mail@oicv.iosco.org
Web Page: www.iosco.org

OICV / IOSCO

ORGANIZATION FOR INTERNATIONAL INVESTMENT
INTERNATIONAL BUSINESS INVESTING IN AMERICA

TODD M. MALAN, EXECUTIVE DIRECTOR

August 19, 2002

Jonathan G. Katz
Secretary
U. S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

Re: Petition for Rulemaking Relating to the Sarbanes-Oxley Act of 2002

Dear Mr. Katz:

The Organization for International Investment ("OFII") is the leading business association in the United States representing the interests of U.S. subsidiaries of nearly 100 international companies (membership list attached). Many of these international companies are "foreign private issuers" under Commission rules and are required to file Form 20-F or Form 40-F and other reports with the Commission, often as a result of a listing of their securities on the New York Stock Exchange or another market. These companies are therefore subject to many of the provisions of the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley"), which was signed into law on July 30, 2002.

Our members fully support the intent of the U.S. Congress and the Commission to enhance investor protection. In particular, Sarbanes-Oxley is an important legislative initiative aimed at increasing the accuracy and reliability of corporate disclosures made pursuant to the federal securities laws.

The purpose of this letter, however, is to petition the Commission to take prompt action to exempt foreign private issuers from certain provisions of Sarbanes-Oxley that became immediately effective and that may be inconsistent with the laws or practices of these issuers' home jurisdictions.

A secondary purpose of this letter is to request that the Commission, in implementing those provisions of Sarbanes-Oxley that contemplate rulemaking by the Commission, consider appropriate exemptions or accommodations for foreign private issuers.

I. Traditional Commission Accommodation of Foreign Private Issuers

The Commission has for many years, as a matter of policy, encouraged foreign private issuers to enter the U.S. capital and securities markets as "reporting companies" under the Securities and Exchange Act of 1934 (the "1934 Act"). The Commission has implemented this policy by providing foreign private issuers with a number of accommodations to foreign practices and polices where such accommodations would not be inconsistent with the protection of U.S. investors. These accommodations include:

- interim reporting on the basis of home country and stock exchange practice rather than mandated quarterly reports;

- exemption from the proxy rules and the insider reporting and short swing profit recovery provisions of Section 16;

- aggregate executive compensation disclosure rather than individual disclosure, if so permitted in an issuer's home country;

- use of home country accounting principles with a reconciliation to U.S. generally accepted accounting principles, with acceptance of certain International Accounting Standards; and

- acquiescence in New York Stock Exchange and National Association of Securities Dealers corporate governance standards that are tailored to the needs of foreign private issuers.

As of the end of 2001, more than 1300 foreign private issuers from 59 countries had become reporting companies in reliance on the Commission's accommodations.

II. Foreign Private Issuers and the Immediately Effective Provisions of Sarbanes-Oxley

The majority of the requirements of Sarbanes-Oxley become effective only after the adoption of rules by the Commission or by the newly-created Public Company Accounting Oversight Board. Certain of these rules must be adopted within 30 days from enactment, while others may be adopted over periods of up to one year.

However, certain provisions of Sarbanes-Oxley became effective immediately upon the President's signature of the law on July 30, 2002. These provisions include a prohibition on loans to directors and executive officers (§402) and a forfeiture by certain officers of compensation and securities-related profits in the event of certain restatements (§304).

OFII submits that these immediately-effective provisions represent an unfair, unnecessary and highly intrusive interference with the home country standards applicable to foreign private issuers.

Sarbanes-Oxley does not by its terms distinguish U.S. from foreign reporting companies. There appears little doubt, however, that Congress was primarily focusing on U.S. companies in the hearings and debate that resulted in the new law. For example, in remarks submitted on July 25, 2002 for inclusion in the Congressional Record, Senator Enzi stated that "[f]oreign issuers are not part of the current problems being seen in the U.S. capital markets." He went on to state his belief that it was not the intent of the conferees "to export U.S. standards disregarding the sovereignty of other countries as well as their regulators." He also stated his belief that the conferees intended to permit the Commission "wide latitude" in using its authority to deal with "technical matters such as the scope of the definitions and their applicability to foreign issuers."

Senator Enzi also referred to the Commission's historical deference to the home countries of foreign private issuers to prescribe corporate governance standards. Indeed, it is highly unlikely that more than 1300 foreign private issuers would have voluntarily submitted themselves to the 1934 Act's reporting requirements if they had believed that in so doing they would have subjected themselves to the intrusive requirements referred to above.

III. Prohibition on Personal Loans

The need for prompt exemptive action by the Commission is clearest in the case of the prohibition in Section 402 of Sarbanes-Oxley on loans to directors and executive officers.

Overnight, it has become unlawful for a foreign reporting company "directly or indirectly" to make any "extension of credit," to "arrange" for any extension of credit, or to "renew" an extension of credit, where the credit is in the form of a "personal loan," to any "director or executive officer," wherever in the world that person may be located.

Section 402 has a particularly intrusive and dramatic effect on foreign companies. Sarbanes-Oxley does not recognize, for example, the safeguards afforded by foreign regulatory schemes relating to such loans. Nor does it make provision for legal or contractual obligations of foreign private issuers to their directors or executive officers to extend, arrange, renew or modify loans.

Also, the technical terms of the prohibition are set forth in terms of U.S. legal concepts. For example, many U.S. lawyers are recommending to their U.S. clients that the prohibition on "arranging" be applied on the basis of the definition of that term for the

Federal Reserve's Regulation T – a prohibition that applies to U.S. broker-dealers and many of the interpretations of which are decades old.

Moreover, the exceptions to the prohibition that were intended by Congress to mitigate the effect of the prohibition are again set forth in terms of U.S. legal concepts. Whether a loan qualifies as a "non-personal" loan or as "consumer credit" is defined in terms of the U.S. statutory scheme.

Finally, the exception for bank or margin loans is set forth in terms of U.S. issuers. An "insured depository institution" may make a loan to a director or executive officer in accordance with current U.S. restrictions on loans to "insiders," but a foreign bank may not make such a loan because its deposits are not FDIC-insured. A broker-dealer registered with the Commission may make a margin loan to an "employee," but routine margin loans extended by a foreign private issuer to a director or executive officer in accordance with home country practice would not qualify for the exception. Additionally, a loan to purchase the foreign company's stock may be exactly the type of loan that is customary in many countries.

Loans to directors and executive officers are already the subject of Commission disclosure requirements under Item 7B of Form 20-F. Moreover, while we cannot generalize as to all reporting foreign private issuers, such loans are frequently the subject of home country regulation. In Germany, for example, the Stock Corporation Law requires that extensions of credit to members of the board of managers be approved by the supervisory board as to amount, interest rate and repayment terms. This includes extensions of credit to family members and certain other related persons. Loans by financial services companies are subject to a separate statutory regulatory scheme.

We do not believe the Commission can provide any meaningful relief in this area short of a blanket exemption for foreign private issuers along the lines of the exemptions currently provided in Rule 3a12-3(b), i.e., by adding "§13(k)" to the references in that rule, and we hereby petition the Commission to provide such an exemption.

IV. Forfeitures of Compensation and Securities-Related Profits

Another immediately effective provision of Sarbanes-Oxley (§304) requires the chief executive and chief financial officers of a reporting company to reimburse the company for bonuses, incentives or equity-based compensation and for profits realized from the sale of securities in the event the company is "required" to prepare an "accounting restatement" due to material noncompliance, "as a result of misconduct," with any financial reporting requirement under the securities laws.

Section 304 has a particularly harsh and intrusive effect on foreign companies. Consider, for example, a restatement by a foreign private issuer as a result of its

noncompliance with home country financial reporting requirements. Given that the Commission's financial reporting requirements for a foreign private issuer are defined in terms of the issuer's home country financial reporting requirements, Section 304 would create a private right by the issuer of action for reimbursement under U.S. law by the issuer against its chief executive and chief financial officers as a result of a violation of home country requirements.

Home country shareholders might seek to enforce the reimbursement obligation in home country courts, further compounding the intrusive effect of Section 304. U.S. stockholders might also seek to enforce the obligation in U.S. courts, perhaps by serving them while they are temporarily present in the United States.

Moreover, the officers of foreign private issuers may have contractual employment or compensation claims that a court in the issuer's home country would regard as superior to the claims of Section 304. This could result in the issuer's being required by the foreign court to make the officers whole for any amount a U.S. court might require them to pay, with the possibility of a further reimbursement claim by yet another stockholder.

As in the case of the prohibition on loans, we do not believe the Commission can provide any meaningful relief in this area short of a blanket exemption for foreign private issuers by adding "§304 of the Sarbanes-Oxley Act of 2002" to the references in Rule 3a12-3(b), and we hereby petition the Commission to provide such an exemption.

V. Commission Rulemaking

We recognize that the Commission is facing an unprecedented rulemaking burden as a result of Sarbanes-Oxley. By some measures, it must propose and adopt more than 24 sets of rules over the next several months, and another 20 if one takes into consideration the rules of the Public Company Accounting Oversight Board that the Commission is required to approve.

In formulating its rule proposals, we urge the Commission to consider making appropriate accommodation for foreign private issuers in the following areas:

- In its current rulemaking project under §302 of Sarbanes-Oxley, the Commission should consider exempting individual officers of foreign private issuers from the certification requirements. Such an exemption is particularly called for where, under home country law, the responsibility for the accuracy of disclosure documents is borne by a collective body rather than individuals.

- Moreover, the Commission should make clear that Form 6-K reports will not be subject to the §302 certification requirements. First, Form 6-K reports are not "quarterly" reports as specified in §302. More importantly, unlike Form 20-F

reports, reports on Form 6-K represent disclosures made in accordance with home country rather than U.S. requirements.

- The "fair presentation" certification requirement under §302 should in any event not apply to the financial information included solely for the purpose of reconciling financial statements to U.S. generally accepted accounting principles.

- Foreign private issuers should not be required to adopt the corporate governance standards that apply to U.S. companies. Any such requirement would risk direct conflicts with foreign law (as in the case, for example, of accommodating audit committees within a two-tier board structure or dealing with a legal requirement that outside auditors be appointed by the stockholders). We believe investor protection would be adequately served by a requirement, such as that recently recommended by the New York Stock Exchange's committee on Corporate Accountability and Listing Standards, that companies disclose any differences in corporate governance standards.

- Accounting firms should be permitted to perform non-audit services for foreign private issuers as permitted in the home country.

- The Commission should consider other appropriate exemptions for foreign private issuers from the provisions of Section 10A that were added by Sarbanes-Oxley.

- Codes of ethics for senior financial officers, and related disclosures, should be required only if required in the home country.

- Internal control assessments, related officer certificates and related auditor attestations and reports, should be required only if required in the home country.

We intend to urge the Public Company Accounting Oversight Board (the "Board") to make similar accommodations for foreign private issuers in the rules that Sarbanes-Oxley requires it to adopt. We also intend to offer comments on rules proposed by the Commission as well as the Board.

VI. Addressing Foreign Concerns Regarding Sarbanes-Oxley

It has surely not escaped the Commission's attention that the application of Sarbanes-Oxley to foreign private issuers has become the subject of considerable concern outside the United States. We believe the Commission has the opportunity to demonstrate that much of this concern is unwarranted.

The Commission can do so by reaffirming its policy of providing accommodations for foreign private issuers where compliance with U.S. law would represent an unwarranted

intrusion onto home country laws or practices and would not be necessary for the protection of investors. We believe the areas specified above relating to loans and forfeitures are two such areas where exemptive action is clearly warranted by these standards. The prompt granting of such exemptions will have a calming effect among foreign private issuers as well as their regulators. The calming effect will be enhanced as the Commission demonstrates during the rulemaking process a continuing commitment to making appropriate accommodation for foreign private issuers.

We also note that foreign concern about Sarbanes-Oxley is undoubtedly having a chilling effect on foreign private issuers' willingness to enter the U.S. capital and securities markets. Such a result is unfortunate, especially given both major exchanges' efforts to foster foreign listings and to implement responsible corporate governance standards. Again, prompt Commission action as requested in this letter would be particularly effective in alleviating the concerns of foreign private issuers about entering the U.S. capital and securities markets.

Please do not hesitate to contact me regarding this petition for rulemaking or regarding any aspect of Sarbanes-Oxley and its impact on foreign issuers.

Sincerely,

Todd M. Malan
Executive Director

cc: Hon. Harvey L. Pitt, Chairman
Hon. Cynthia A. Glassman, Commissioner
Hon. Harvey J. Goldschmid, Commissioner
Hon. Paul Atkins, Commissioner
Hon. Roel Campos, Commissioner