

## Calendar No. 442

107TH CONGRESS  
2D SESSION

# S. 2673

To improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

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### IN THE SENATE OF THE UNITED STATES

JUNE 25, 2002

Mr. SARBANES, from the Committee on Banking, Housing, and Urban Affairs, reported the following original bill; which was read twice and placed on the calendar

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## A BILL

To improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and inde-

pendence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
 5 “Public Company Accounting Reform and Investor Pro-  
 6 tection Act of 2002”.

7        (b) TABLE OF CONTENTS.—The table of contents for  
 8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Commission rules and enforcement.

TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

- Sec. 101. Establishment; administrative provisions.
- Sec. 102. Registration with the Board.
- Sec. 103. Auditing, quality control, and independence standards and rules.
- Sec. 104. Inspections of registered public accounting firms.
- Sec. 105. Investigations and disciplinary proceedings.
- Sec. 106. Foreign public accounting firms.
- Sec. 107. Commission oversight of the Board.
- Sec. 108. Accounting standards.
- Sec. 109. Funding.

TITLE II—AUDITOR INDEPENDENCE

- Sec. 201. Services outside the scope of practice of auditors.
- Sec. 202. Preapproval requirements.
- Sec. 203. Audit partner rotation.
- Sec. 204. Auditor reports to audit committees.
- Sec. 205. Conforming amendments.
- Sec. 206. Conflicts of interest.
- Sec. 207. Study of mandatory rotation of registered public accounting firms.
- Sec. 208. Commission authority.
- Sec. 209. Considerations by appropriate State regulatory authorities.

TITLE III—CORPORATE RESPONSIBILITY

- Sec. 301. Public company audit committees.
- Sec. 302. Corporate responsibility for financial reports.
- Sec. 303. Improper influence on conduct of audits.

- Sec. 304. Forfeiture of certain bonuses and profits.  
 Sec. 305. Officer and director bars and penalties.  
 Sec. 306. Insider trades during pension fund blackout periods prohibited.

#### TITLE IV—ENHANCED FINANCIAL DISCLOSURES

- Sec. 401. Disclosures in periodic reports.  
 Sec. 402. Enhanced conflict of interest disclosures.  
 Sec. 403. Disclosures of transactions involving management and principal stockholders.  
 Sec. 404. Management assessment of internal controls.  
 Sec. 405. Exemption.  
 Sec. 406. Code of ethics for senior financial officers.  
 Sec. 407. Disclosure of audit committee financial expert.

#### TITLE V—ANALYST CONFLICTS OF INTEREST

- Sec. 501. Treatment of securities analysts by registered securities associations.

#### TITLE VI—COMMISSION RESOURCES AND AUTHORITY

- Sec. 601. Authorization of appropriations.  
 Sec. 602. Appearance and practice before the Commission.  
 Sec. 603. Federal court authority to impose penny stock bars.  
 Sec. 604. Qualifications of associated persons of brokers and dealers.

#### TITLE VII—STUDIES AND REPORTS

- Sec. 701. GAO study and report regarding consolidation of public accounting firms.  
 Sec. 702. Commission study and report regarding credit rating agencies.

### 1 **SEC. 2. DEFINITIONS.**

2 (a) IN GENERAL.—In this Act, the following defini-  
 3 tions shall apply:

4 (1) APPROPRIATE STATE REGULATORY AU-  
 5 THORITY.—The term “appropriate State regulatory  
 6 authority” means the State agency or other author-  
 7 ity responsible for the licensure or other regulation  
 8 of the practice of accounting in the State or States  
 9 having jurisdiction over a registered public account-  
 10 ing firm or associated person thereof, with respect to  
 11 the matter in question.

1           (2) AUDIT.—The term “audit” means an exam-  
2           ination of the financial statements of any issuer by  
3           an independent public accounting firm in accordance  
4           with the rules of the Board or the Commission (or,  
5           for the period preceding the adoption of applicable  
6           rules of the Board under section 103, in accordance  
7           with then-applicable generally accepted auditing and  
8           related standards for such purposes), for the pur-  
9           pose of expressing an opinion on such statements.

10           (3) AUDIT COMMITTEE.—The term “audit com-  
11           mittee” means—

12                   (A) a committee (or equivalent body) es-  
13                   tablished by and amongst the board of directors  
14                   of an issuer for the purpose of overseeing the  
15                   accounting and financial reporting processes of  
16                   the issuer and audits of the financial state-  
17                   ments of the issuer; and

18                   (B) if no such committee exists with re-  
19                   spect to an issuer, the entire board of directors  
20                   of the issuer.

21           (4) AUDIT REPORT.—The term “audit report”  
22           means a document or other record—

23                   (A) prepared following an audit performed  
24                   for purposes of compliance by an issuer with  
25                   the requirements of the securities laws; and

1 (B) in which a public accounting firm  
2 either—

3 (i) sets forth the opinion of that firm  
4 regarding a financial statement, report, or  
5 other document; or

6 (ii) asserts that no such opinion can  
7 be expressed.

8 (5) BOARD.—The term “Board” means the  
9 Public Company Accounting Oversight Board estab-  
10 lished under section 101.

11 (6) COMMISSION.—The term “Commission”  
12 means the Securities and Exchange Commission.

13 (7) ISSUER.—The term “issuer” means an  
14 issuer (as defined in section 3 of the Securities Ex-  
15 change Act of 1934 (15 U.S.C. 78c)), the securities  
16 of which are registered under section 12 of that Act  
17 (15 U.S.C. 78l), or that is required to file reports  
18 pursuant to section 15(d) of that Act (15 U.S.C.  
19 78o(d)), or that will be required to file such reports  
20 at the end of a fiscal year of the issuer in which a  
21 registration statement filed by such issuer has be-  
22 come effective pursuant to the Securities Act of  
23 1933 (15 U.S.C. 77a et. seq.), unless its securities  
24 are registered under section 12 of the Securities Ex-

1 change Act of 1934 (15 U.S.C. 78c) on or before the  
2 end of such fiscal year.

3 (8) NON-AUDIT SERVICES.—The term “non-  
4 audit services” means any professional services pro-  
5 vided to an issuer by a registered public accounting  
6 firm, other than those provided to an issuer in con-  
7 nection with an audit or a review of the financial  
8 statements of an issuer.

9 (9) PERSON ASSOCIATED WITH A PUBLIC AC-  
10 COUNTING FIRM.—

11 (A) IN GENERAL.—The terms “person as-  
12 sociated with a public accounting firm” (or with  
13 a “registered public accounting firm”) and “as-  
14 sociated person of a public accounting firm” (or  
15 of a “registered public accounting firm”) mean  
16 any individual proprietor, partner, shareholder,  
17 principal, accountant, or other professional em-  
18 ployee of a public accounting firm, or any other  
19 independent contractor or entity that, in con-  
20 nection with the preparation or issuance of any  
21 audit report—

22 (i) shares in the profits of, or receives  
23 compensation in any other form from, that  
24 firm; or

1                   (ii) participates as agent or otherwise  
2                   on behalf of such accounting firm in any  
3                   activity of that firm.

4                   (B) EXEMPTION AUTHORITY.—The Board  
5                   may, by rule, exempt persons engaged only in  
6                   ministerial tasks from the definition in subpara-  
7                   graph (A), to the extent that the Board deter-  
8                   mines that any such exemption is consistent  
9                   with the purposes of this Act, the public inter-  
10                  est, or the protection of investors.

11                  (10) PROFESSIONAL STANDARDS.—The term  
12                  “professional standards” means—

13                       (A) accounting principles that are—

14                               (i) established by the standard setting  
15                               body described in section 19(b) of the Se-  
16                               curities Act of 1933, as amended by this  
17                               Act, or prescribed by the Commission  
18                               under section 19(a) of that Act (15 U.S.C.  
19                               17a(s)) or section 13(b) of the Securities  
20                               Exchange Act of 1934 (15 U.S.C. 78a(m));  
21                               and

22                               (ii) relevant to audit reports for par-  
23                               ticular issuers, or dealt with in the quality  
24                               control system of a particular registered  
25                               public accounting firm; and

1 (B) auditing standards, standards for at-  
2 testation engagements, quality control policies  
3 and procedures, ethical and competency stand-  
4 ards, and independence standards (including  
5 rules implementing title II) that the Board or  
6 the Commission determines—

7 (i) relate to the preparation or  
8 issuance of audit reports for issuers; and

9 (ii) are established or adopted by the  
10 Board under section 103(a), or are pro-  
11 mulgated as rules of the Commission.

12 (11) PUBLIC ACCOUNTING FIRM.—The term  
13 “public accounting firm” means—

14 (A) a proprietorship, partnership, incor-  
15 porated association, corporation, limited liability  
16 company, limited liability partnership, or other  
17 legal entity that is engaged in the practice of  
18 public accounting or preparing or issuing audit  
19 reports; and

20 (B) to the extent so designated by the  
21 rules of the Board, any associated person of  
22 any entity described in subparagraph (A).

23 (12) REGISTERED PUBLIC ACCOUNTING  
24 FIRM.—The term “registered public accounting

1 firm” means a public accounting firm registered  
2 with the Board in accordance with this Act.

3 (13) RULES OF THE BOARD.—The term “rules  
4 of the Board” means the bylaws and rules of the  
5 Board (as submitted to, and approved, modified, or  
6 amended by the Commission, in accordance with sec-  
7 tion 107), and those stated policies, practices, and  
8 interpretations of the Board that the Commission,  
9 by rule, may deem to be rules of the Board, as nec-  
10 essary or appropriate in the public interest or for  
11 the protection of investors.

12 (14) SECURITY.—The term “security” has the  
13 same meaning as in section 3(a) of the Securities  
14 Exchange Act of 1934 (15 U.S.C. 78c(a)).

15 (15) SECURITIES LAWS.—The term “securities  
16 laws” means the provisions of law referred to in sec-  
17 tion 3(a)(47) of the Securities Exchange Act of  
18 1934 (15 U.S.C. 78c(a)(47)), as amended by this  
19 Act, and includes the rules, regulations, and orders  
20 issued by the Commission thereunder.

21 (16) STATE.—The term “State” means any  
22 State of the United States, the District of Columbia,  
23 Puerto Rico, the Virgin Islands, or any other terri-  
24 tory or possession of the United States.

1 (b) CONFORMING AMENDMENT.—Section 3(a)(47) of  
2 the Securities Exchange Act of 1934 (15 U.S.C.  
3 78c(a)(47)) is amended by inserting “the Public Company  
4 Accounting Reform and Investor Protection Act of 2002,”  
5 before “the Public”.

6 **SEC. 3. COMMISSION RULES AND ENFORCEMENT.**

7 (a) REGULATORY ACTION.—The Commission shall  
8 promulgate such rules and regulations, as may be nec-  
9 essary or appropriate in the public interest or for the pro-  
10 tection of investors, and in furtherance of this Act.

11 (b) ENFORCEMENT.—

12 (1) IN GENERAL.—A violation by any person of  
13 this Act, any rule or regulation of the Commission  
14 issued under this Act, or any rule of the Board shall  
15 be treated for all purposes in the same manner as  
16 a violation of the Securities Exchange Act of 1934  
17 (15 U.S.C. 78a et seq.) or the rules and regulations  
18 issued thereunder, consistent with the provisions of  
19 this Act, and any such person shall be subject to the  
20 same penalties, and to the same extent, as for a vio-  
21 lation of that Act or such rules or regulations.

22 (2) INVESTIGATIONS, INJUNCTIONS, AND PROS-  
23 ECUTION OF OFFENSES.—Section 21 of the Securi-  
24 ties Exchange Act of 1934 (15 U.S.C. 78u) is  
25 amended

1 (A) in subsection (a)(1), by inserting “the  
2 rules of the Public Company Accounting Over-  
3 sight Board, of which such person is a reg-  
4 istered public accounting firm or a person asso-  
5 ciated with such a firm,” after “is a partici-  
6 pant,”;

7 (B) in subsection (d)(1), by inserting “the  
8 rules of the Public Company Accounting Over-  
9 sight Board, of which such person is a reg-  
10 istered public accounting firm or a person asso-  
11 ciated with such a firm,” after “is a partici-  
12 pant,”;

13 (C) in subsection (e), by inserting “the  
14 rules of the Public Company Accounting Over-  
15 sight Board, of which such person is a reg-  
16 istered public accounting firm or a person asso-  
17 ciated with such a firm,” after “is a partici-  
18 pant,”; and

19 (D) in subsection (f), by inserting “or the  
20 Public Company Accounting Oversight Board”  
21 after “self-regulatory organization” each place  
22 that term appears.

23 (3) CEASE-AND-DESIST PROCEEDINGS.—Section  
24 21C(c)(2) of the Securities Exchange Act of 1934  
25 (15 U.S.C. 78u–3(c)(2)) is amended by inserting

1 “registered public accounting firm (as defined in  
2 section 2 of the Public Company Accounting Reform  
3 and Investor Protection Act of 2002),” after “gov-  
4 ernment securities dealer,”.

5 (c) EFFECT ON COMMISSION AUTHORITY.—Nothing  
6 in this Act or the rules of the Board shall be construed  
7 to impair or limit—

8 (1) the authority of the Commission to regulate  
9 the accounting profession, accounting firms, or per-  
10 sons associated with such firms for purposes of en-  
11 forcement of the securities laws;

12 (2) the authority of the Commission to set  
13 standards for accounting or auditing practices or  
14 auditor independence, derived from other provisions  
15 of the securities laws or the rules or regulations  
16 thereunder, for purposes of the preparation and  
17 issuance of any audit report, or otherwise under ap-  
18 plicable law; or

19 (3) the ability of the Commission to take, on  
20 the initiative of the Commission, legal, administra-  
21 tive, or disciplinary action against any registered  
22 public accounting firm or any associated person  
23 thereof.

1 **TITLE I—PUBLIC COMPANY AC-**  
2 **COUNTING OVERSIGHT**  
3 **BOARD**

4 **SEC. 101. ESTABLISHMENT; ADMINISTRATIVE PROVISIONS.**

5 (a) ESTABLISHMENT OF BOARD.—There is estab-  
6 lished the Public Company Accounting Oversight Board,  
7 to oversee the audit of public companies that are subject  
8 to the securities laws, and related matters, in order to pro-  
9 tect the interests of investors and further the public inter-  
10 est in the preparation of informative, accurate, and inde-  
11 pendent audit reports for companies the securities of  
12 which are sold to, and held by and for, public investors.  
13 The Board shall be a body corporate, operate as a non-  
14 profit corporation, and have succession until dissolved by  
15 an Act of Congress.

16 (b) STATUS.—The Board shall not be an agency or  
17 establishment of the United States Government, and, ex-  
18 cept as otherwise provided in this Act, shall be subject to,  
19 and have all the powers conferred upon a nonprofit cor-  
20 poration by, the District of Columbia Nonprofit Corpora-  
21 tion Act. No member or person employed by, or agent for,  
22 the Board shall be deemed to be an officer or employee  
23 of or agent for the Federal Government by reason of such  
24 service.

1           (c) DUTIES OF THE BOARD.—The Board shall, sub-  
2 ject to action by the Commission under section 107, and  
3 once a determination is made by the Commission under  
4 subsection (d) of this section—

5           (1) register public accounting firms that pre-  
6 pare audit reports for issuers, in accordance with  
7 section 102;

8           (2) establish or adopt, or both, by rule, audit-  
9 ing, quality control, ethics, independence, and other  
10 standards relating to the preparation of audit re-  
11 ports for issuers, in accordance with section 103;

12           (3) conduct inspections of registered public ac-  
13 counting firms, in accordance with section 104 and  
14 the rules of the Board;

15           (4) conduct investigations and disciplinary pro-  
16 ceedings concerning, and impose appropriate sanc-  
17 tions where justified upon, registered public account-  
18 ing firms and associated persons of such firms, in  
19 accordance with section 105;

20           (5) perform such other duties or functions as  
21 the Board determines are necessary or appropriate  
22 to promote high professional standards among, and  
23 improve the quality of audit services offered by, reg-  
24 istered public accounting firms and associated per-  
25 sons thereof, or otherwise to carry out this Act, in

1 order to protect investors, or to further the public  
2 interest;

3 (6) enforce compliance with this Act, the rules  
4 of the Board, professional standards, and the securi-  
5 ties laws relating to the preparation and issuance of  
6 audit reports and the obligations and liabilities of  
7 accountants with respect thereto, by registered pub-  
8 lic accounting firms and associated persons thereof;  
9 and

10 (7) set the budget and manage the operations  
11 of the Board and the staff of the Board.

12 (d) COMMISSION DETERMINATION.—The members of  
13 the Board shall take such action (including hiring of staff,  
14 proposal of rules, and adoption of initial and transitional  
15 auditing and other professional standards) as may be nec-  
16 essary or appropriate to enable the Commission to deter-  
17 mine, not later than 270 days after the date of enactment  
18 of this Act, that the Board is so organized and has the  
19 capacity to carry out the requirements of this title, and  
20 to enforce compliance with this title by registered public  
21 accounting firms and associated persons thereof.

22 (e) BOARD MEMBERSHIP.—

23 (1) COMPOSITION.—The Board shall have 5  
24 members, appointed from among prominent individ-  
25 uals of integrity and reputation who have a dem-

1       onstrated commitment to the interests of investors  
2       and the public, and an understanding of the respon-  
3       sibilities for and nature of the financial disclosures  
4       required of issuers under the securities laws and the  
5       obligations of accountants with respect to the prepa-  
6       ration and issuance of audit reports with respect to  
7       such disclosures.

8           (2) LIMITATION.—Two members, and only 2  
9       members, of the Board shall be or have been cer-  
10      tified public accountants pursuant to the laws of 1  
11      or more States, provided that, if 1 of those 2 mem-  
12      bers is the chairperson, he or she may not have been  
13      a practicing certified public accountant for at least  
14      5 years prior to his or her appointment to the  
15      Board.

16          (3) FULL-TIME INDEPENDENT SERVICE.—Each  
17      member of the Board shall serve on a full-time basis,  
18      and may not, concurrent with service on the Board,  
19      be employed by any other person or engage in any  
20      other professional or business activity. No member  
21      of the Board may share in any of the profits of, or  
22      receive payments from, a public accounting firm (or  
23      any other person, as determined by rule of the Com-  
24      mission), other than fixed continuing payments, sub-  
25      ject to such conditions as the Commission may im-

1 pose, under standard arrangements for the retire-  
2 ment of members of public accounting firms.

3 (4) APPOINTMENT OF BOARD MEMBERS.—

4 (A) INITIAL BOARD.—Not later than 90  
5 days after the date of enactment of this Act,  
6 the Commission, after consultation with the  
7 Chairman of the Board of Governors of the  
8 Federal Reserve System and the Secretary of  
9 the Treasury, shall appoint the chairperson and  
10 other initial members of the Board, and shall  
11 designate a term of service for each.

12 (B) VACANCIES.—A vacancy on the Board  
13 shall not affect the powers of the Board, but  
14 shall be filled in the same manner as provided  
15 for appointments under this section.

16 (5) TERM OF SERVICE.—

17 (A) IN GENERAL.—The term of service of  
18 each Board member shall be 5 years, and until  
19 a successor is appointed, except that—

20 (i) the terms of office of the initial  
21 Board members (other than the chair-  
22 person) shall expire in annual increments,  
23 1 on each of the first 4 anniversaries of  
24 the initial date of appointment; and

1                   (ii) any Board member appointed to  
2                   fill a vacancy occurring before the expira-  
3                   tion of the term for which the predecessor  
4                   was appointed shall be appointed only for  
5                   the remainder of that term.

6                   (B) TERM LIMITATION.—No person may  
7                   serve as a member of the Board, or as chair-  
8                   person of the Board, for more than 2 terms,  
9                   whether or not such terms of service are con-  
10                  secutive.

11                  (6) REMOVAL FROM OFFICE.—A member of the  
12                  Board may be removed by the Commission from of-  
13                  fice, in accordance with section 107(d)(3), for good  
14                  cause shown before the expiration of the term of  
15                  that member.

16                  (f) POWERS OF THE BOARD.—In addition to any au-  
17                  thority granted to the Board otherwise in this Act, the  
18                  Board shall have the power, subject to section 107—

19                   (1) to sue and be sued, complain and defend, in  
20                   its corporate name and through its own counsel,  
21                   with the approval of the Commission, in any Fed-  
22                   eral, State, or other court;

23                   (2) to conduct its operations and maintain of-  
24                   fices, and to exercise all other rights and powers au-  
25                   thorized by this Act, in any State, without regard to

1 any qualification, licensing, or other provision of law  
2 in effect in such State (or a political subdivision  
3 thereof);

4 (3) to lease, purchase, accept gifts or donations  
5 of or otherwise acquire, improve, use, sell, exchange,  
6 or convey, all of or an interest in any property,  
7 wherever situated;

8 (4) to appoint such employees, accountants, at-  
9 torneys, and other agents as may be necessary or  
10 appropriate, and to determine their qualifications,  
11 define their duties, and fix their salaries or other  
12 compensation (at a level that is comparable to pri-  
13 vate sector self-regulatory, accounting, technical, su-  
14 pervisory, or other staff or management positions);

15 (5) to allocate, assess, and collect accounting  
16 support fees established pursuant to section 109, for  
17 the Board, and other fees and charges imposed  
18 under this title; and

19 (6) to enter into contracts, execute instruments,  
20 incur liabilities, and do any and all other acts and  
21 things necessary, appropriate, or incidental to the  
22 conduct of its operations and the exercise of its obli-  
23 gations, rights, and powers imposed or granted by  
24 this title.

1 (g) RULES OF THE BOARD.—The rules of the Board  
2 shall, subject to the approval of the Commission—

3 (1) provide for the operation and administration  
4 of the Board, the exercise of its authority, and the  
5 performance of its responsibilities under this Act;

6 (2) permit, as the Board determines necessary  
7 or appropriate, delegation by the Board of any of its  
8 functions to an individual member or employee of  
9 the Board, or to a division of the Board, including  
10 functions with respect to hearing, determining, or-  
11 dering, certifying, reporting, or otherwise acting as  
12 to any matter, except that—

13 (A) the Board shall retain a discretionary  
14 right to review any action pursuant to any such  
15 delegated function, upon its own motion;

16 (B) a person shall be entitled to a review  
17 by the Board with respect to any matter so del-  
18 egated, and the decision of the Board upon  
19 such review shall be deemed to be the action of  
20 the Board for all purposes (including appeal or  
21 review thereof); and

22 (C) if the right to exercise a review de-  
23 scribed in subparagraph (A) is declined, or if no  
24 such review is sought within the time stated in  
25 the rules of the Board, then the action taken by

1 the holder of such delegation shall for all pur-  
2 poses, including appeal or review thereof, be  
3 deemed to be the action of the Board;

4 (3) establish ethics rules and standards of con-  
5 duct for Board members and staff, including a bar  
6 on practice before the Board (and the Commission,  
7 with respect to Board-related matters) of 1 year for  
8 former members of the Board, and appropriate peri-  
9 ods (not to exceed 1 year) for former staff of the  
10 Board; and

11 (4) provide as otherwise required by this Act.

12 (h) ANNUAL REPORT TO THE COMMISSION.—The  
13 Board shall submit an annual report (including its audited  
14 financial statements) to the Commission, and the Commis-  
15 sion shall transmit a copy of that report to the Committee  
16 on Banking, Housing, and Urban Affairs of the Senate,  
17 and the Committee on Financial Services of the House of  
18 Representatives, not later than 30 days after the date of  
19 receipt of that report by the Commission.

20 **SEC. 102. REGISTRATION WITH THE BOARD.**

21 (a) MANDATORY REGISTRATION.—Beginning 180  
22 days after the date of the determination of the Commis-  
23 sion under section 101(d), it shall be unlawful for any per-  
24 son that is not a registered public accounting firm to pre-

1 pare or issue, or to participate in the preparation or  
2 issuance of, any audit report with respect to any issuer.

3 (b) APPLICATIONS FOR REGISTRATION.—

4 (1) FORM OF APPLICATION.—A public account-  
5 ing firm shall use such form as the Board may pre-  
6 scribe, by rule, to apply for registration under this  
7 section.

8 (2) CONTENTS OF APPLICATIONS.—Each public  
9 accounting firm shall submit, as part of its applica-  
10 tion for registration, in such detail as the Board  
11 shall specify—

12 (A) the names of all issuers for which the  
13 firm prepared or issued audit reports during  
14 the immediately preceding calendar year, and  
15 for which the firm expects to prepare or issue  
16 audit reports during the current calendar year;

17 (B) the annual fees received by the firm  
18 from each such issuer for audit services, other  
19 accounting services, and non-audit services, re-  
20 spectively;

21 (C) such other current financial informa-  
22 tion for the most recently completed fiscal year  
23 of the firm as the Board may reasonably re-  
24 quest;

1 (D) a statement of the quality control poli-  
2 cies of the firm for its accounting and auditing  
3 practices;

4 (E) a list of all accountants associated  
5 with the firm who participate in or contribute  
6 to the preparation of audit reports, stating the  
7 license or certification number of each such per-  
8 son, as well as the State license numbers of the  
9 firm itself;

10 (F) information relating to criminal, civil,  
11 or administrative actions or disciplinary pro-  
12 ceedings pending against the firm or any associ-  
13 ated person of the firm in connection with any  
14 audit report;

15 (G) copies of any periodic or annual disclo-  
16 sure filed by an issuer with the Commission  
17 during the immediately preceding calendar year  
18 which discloses accounting disagreements be-  
19 tween such issuer and the firm in connection  
20 with an audit report furnished or prepared by  
21 the firm for such issuer; and

22 (H) such other information as the rules of  
23 the Board or the Commission shall specify as  
24 necessary or appropriate in the public interest  
25 or for the protection of investors.

1           (3) CONSENTS.—Each application for registra-  
2           tion under this subsection shall include—

3                   (A) a consent executed by the public ac-  
4                   counting firm to cooperation in and compliance  
5                   with any request for testimony or the produc-  
6                   tion of documents made by the Board in the  
7                   furtherance of its authority and responsibilities  
8                   under this title (and an agreement to secure  
9                   and enforce similar consents from each of the  
10                  associated persons of the public accounting firm  
11                  as a condition of their continued employment by  
12                  or other association with such firm); and

13                  (B) a statement that such firm under-  
14                  stands and agrees that cooperation and compli-  
15                  ance, as described in the consent required by  
16                  subparagraph (A), and the securing and en-  
17                  forcement of such consents from its associated  
18                  persons, in accordance with the rules of the  
19                  Board, shall be a condition to the continuing ef-  
20                  fectiveness of the registration of the firm with  
21                  the Board.

22           (c) ACTION ON APPLICATIONS.—

23                   (1) TIMING.—The Board shall approve a com-  
24                   pleted application for registration not later than 45  
25                   days after the date of receipt of the application, in

1       accordance with the rules of the Board, unless the  
2       Board, prior to such date, issues a written notice of  
3       disapproval to, or requests more information from,  
4       the prospective registrant.

5           (2) TREATMENT.—A written notice of dis-  
6       approval of a completed application under paragraph  
7       (1) for registration shall be treated as a disciplinary  
8       sanction for purposes of sections 105(d) and 107(c).

9           (d) PERIODIC REPORTS.—Each registered public ac-  
10      counting firm shall submit an annual report to the Board,  
11      and may be required to report more frequently, as nec-  
12      essary to update the information contained in its applica-  
13      tion for registration under this section, and to provide to  
14      the Board such additional information as the Board or  
15      the Commission may specify, in accordance with sub-  
16      section (b)(2).

17          (e) PUBLIC AVAILABILITY.—Registration applica-  
18      tions and annual reports required by this subsection, or  
19      such portions of such applications or reports as may be  
20      designated under rules of the Board, shall be made avail-  
21      able for public inspection, subject to rules of the Board  
22      or the Commission, and to applicable laws relating to the  
23      confidentiality of proprietary, personal, or other informa-  
24      tion contained in such applications or reports, provided  
25      that, in all events, the Board shall protect from public dis-

1 closure information reasonably identified by the subject  
2 accounting firm as proprietary information.

3 (f) **REGISTRATION AND ANNUAL FEES.**—The Board  
4 shall assess and collect a registration fee and an annual  
5 fee from each registered public accounting firm, in  
6 amounts that are sufficient to recover the costs of proc-  
7 essing and reviewing applications and annual reports.

8 **SEC. 103. AUDITING, QUALITY CONTROL, AND INDEPEND-**  
9 **ENCE STANDARDS AND RULES.**

10 (a) **AUDITING, QUALITY CONTROL, AND ETHICS**  
11 **STANDARDS.**—

12 “(1) **IN GENERAL.**—The Board shall, by rule,  
13 establish, including, to the extent it determines ap-  
14 propriate, through adoption of standards proposed  
15 by 1 or more professional groups of accountants des-  
16 igned pursuant to paragraph (3)(A) or advisory  
17 groups convened pursuant to paragraph (4), and  
18 amend or otherwise modify or alter, such auditing  
19 and related attestation standards, such quality con-  
20 trol standards, and such ethics standards to be used  
21 by registered public accounting firms in the prepara-  
22 tion and issuance of audit reports, as required by  
23 this Act or the rules of the Commission, or as may  
24 be necessary or appropriate in the public interest or  
25 for the protection of investors.

1           (2) RULE REQUIREMENTS.—In carrying out  
2 paragraph (1), the Board—

3           (A) shall include in the auditing standards  
4 that it adopts, requirements that each reg-  
5 istered public accounting firm shall—

6           (i) prepare, and maintain for a period  
7 of not less than 7 years, audit work pa-  
8 pers, and other information related to any  
9 audit report, in sufficient detail to support  
10 the conclusions reached in such report;

11           (ii) provide a concurring or second  
12 partner review and approval of such audit  
13 report (and other related information), and  
14 concurring approval in its issuance, by a  
15 qualified person (as prescribed by the  
16 Board) associated with the public account-  
17 ing firm, other than the person in charge  
18 of the audit, or by an independent reviewer  
19 (as prescribed by the Board); and

20           (iii) describe the scope of the auditor's  
21 testing of the system of internal account-  
22 ing controls of the issuer required by sec-  
23 tion 13(b)(2) of the Securities Exchange  
24 Act of 1934 (15 U.S.C. 78m(b)(2)), and

1 present (in such report or in a separate re-  
2 port)—

3 (I) the findings of the auditor  
4 from such testing;

5 (II) an evaluation of whether  
6 such system of internal accounting  
7 controls—

8 (aa) complies with the re-  
9 quirements of that section  
10 13(b)(2); and

11 (bb) provides reasonable as-  
12 surance that receipts and expend-  
13 itures of the issuer comply with  
14 applicable law, and are being  
15 made in accordance with proper  
16 authorizations of the manage-  
17 ment and directors of the issuer;  
18 and

19 (III) a description of significant  
20 defects in such internal controls, and  
21 of any material noncompliance, of  
22 which the auditor should know on the  
23 basis of such testing; and

24 (B) shall include, in the quality control  
25 standards that it adopts with respect to the

1 issuance of audit reports, requirements for  
2 every registered public accounting firm relating  
3 to—

4 (i) monitoring of professional ethics  
5 and independence from issuers on behalf of  
6 which the firm issues audit reports;

7 (ii) consultation within such firm on  
8 accounting and auditing questions;

9 (iii) supervision of audit work;

10 (iv) hiring, professional development,  
11 and advancement of personnel;

12 (v) the acceptance and continuation of  
13 engagements;

14 (vi) internal inspection; and

15 (vii) such other requirements as the  
16 Board may prescribe, subject to subsection  
17 (a)(1).

18 (3) AUTHORITY TO ADOPT OTHER STAND-  
19 ARDS.—

20 (A) IN GENERAL.—In carrying out this  
21 subsection, the Board—

22 (i) may adopt as its rules, subject to  
23 the terms of section 107, any portion of  
24 any statement of auditing standards or  
25 other professional standards that the

1 Board determines satisfy the requirements  
2 of paragraph (1), and that were proposed  
3 by 1 or more professional groups of ac-  
4 countants that shall be designated or rec-  
5 ognized by the Board, by rule, for such  
6 purpose, pursuant to this paragraph or 1  
7 or more advisory groups convened pursu-  
8 ant to paragraph (4); and

9 (ii) notwithstanding clause (i), shall  
10 retain full authority to modify, supplement,  
11 revise, or subsequently amend, modify, or  
12 repeal, in whole or in part, any portion of  
13 any statement described in clause (i).

14 (B) INITIAL AND TRANSITIONAL STAND-  
15 ARDS.—The Board shall adopt standards de-  
16 scribed in subparagraph (A)(i) as initial or  
17 transitional standards, to the extent the Board  
18 determines necessary, prior to a determination  
19 of the Commission under section 101(d), and  
20 such standards shall be separately approved by  
21 the Commission at the time of that determina-  
22 tion, without regard to the procedures required  
23 by section 107 that otherwise would apply to  
24 the approval of rules of the Board.

1           (4) ADVISORY GROUPS.—The Board shall con-  
2           vene, or authorize its staff to convene, such expert  
3           advisory groups as may be appropriate, which may  
4           include practicing accountants and other experts, as  
5           well as representatives of other interested groups,  
6           subject to such rules as the Board may prescribe to  
7           prevent conflicts of interest, to make recommenda-  
8           tions concerning the content (including proposed  
9           drafts) of auditing, quality control, ethics, independ-  
10          ence, or other standards required to be established  
11          under this section.

12          (b) INDEPENDENCE STANDARDS AND RULES.—The  
13          Board shall establish such rules as may be necessary or  
14          appropriate in the public interest or for the protection of  
15          investors, to implement, or as authorized under, title II  
16          of this Act.

17          (c) COOPERATION WITH DESIGNATED PROFES-  
18          SIONAL GROUPS OF ACCOUNTANTS AND ADVISORY  
19          GROUPS.—

20                (1) IN GENERAL.—The Board shall cooperate  
21                on an ongoing basis with professional groups of ac-  
22                countants designated under subsection (a)(3)(A) and  
23                advisory groups convened under subsection (a)(4) in  
24                the examination of the need for changes in any  
25                standards subject to its authority under subsection

1 (a), recommend issues for inclusion on the agendas  
2 of such designated professional groups of account-  
3 ants or advisory groups, and take such other steps  
4 as it deems appropriate to increase the effectiveness  
5 of the standard setting process.

6 (2) BOARD RESPONSES.—The Board shall re-  
7 spond in a timely fashion to requests from des-  
8 ignated professional groups of accountants and advi-  
9 sory groups referred to in paragraph (1) for any  
10 changes in standards over which the Board has au-  
11 thority.

12 (d) EVALUATION OF STANDARD SETTING PROC-  
13 ESS.—The Board shall include in the annual report re-  
14 quired by section 101(h) the results of its standard setting  
15 responsibilities during the period to which the report re-  
16 lates, including a discussion of the work of the Board with  
17 any designated professional groups of accountants and ad-  
18 visory groups described in paragraphs (3)(A) and (4) of  
19 subsection (a), and its pending issues agenda for future  
20 standard setting projects.

21 **SEC. 104. INSPECTIONS OF REGISTERED PUBLIC ACCOUNT-**  
22 **ING FIRMS.**

23 (a) IN GENERAL.—The Board shall conduct a con-  
24 tinuing program of inspections to assess the degree of  
25 compliance of each registered public accounting firm and

1 associated persons of that firm with this Act, the rules  
2 of the Board, the rules of the Commission, or professional  
3 standards, in connection with its performance of audits,  
4 issuance of audit reports, and related matters involving  
5 issuers.

6 (b) INSPECTION FREQUENCY.—

7 (1) IN GENERAL.—Subject to paragraph (2),  
8 inspections required by this section shall be  
9 conducted—

10 (A) annually with respect to each reg-  
11 istered public accounting firm that regularly  
12 provides audit reports for more than 100  
13 issuers; and

14 (B) not less frequently than once every 3  
15 years with respect to each registered public ac-  
16 counting firm that regularly provides audit re-  
17 ports for 100 or fewer issuers.

18 (2) ADJUSTMENTS TO SCHEDULES.—The  
19 Board may, by rule, adjust the inspection schedules  
20 set under paragraph (1) if the Board finds that dif-  
21 ferent inspection schedules are consistent with the  
22 purposes of this Act, the public interest, and the  
23 protection of investors.

1 (c) PROCEDURES.—The Board shall, in each inspec-  
2 tion under this section, and in accordance with its rules  
3 for such inspections—

4 (1) identify any act or practice or omission to  
5 act by the registered public accounting firm, or by  
6 any associated person thereof, revealed by such in-  
7 spection that may be in violation of this Act, the  
8 rules of the Board, the rules of the Commission, the  
9 firm’s own quality control policies, or professional  
10 standards;

11 (2) report any such act, practice, or omission,  
12 if appropriate, to the Commission and each appro-  
13 priate State regulatory authority; and

14 (3) begin a formal investigation or take appro-  
15 priate disciplinary action, if any, with respect to any  
16 such violation, in accordance with this Act and the  
17 rules of the Board.

18 (d) CONDUCT OF INSPECTIONS.—In conducting an  
19 inspection of a registered public accounting firm under  
20 this section, the Board shall—

21 (1) inspect and review selected audit and review  
22 engagements of the firm (which may include audit  
23 engagements that are the subject of ongoing litiga-  
24 tion or other controversy between the firm and 1 or  
25 more third parties), performed at various offices and

1 by various associated persons of the firm, as selected  
2 by the Board;

3 (2) evaluate the sufficiency of the quality con-  
4 trol system of the firm, and the manner of the docu-  
5 mentation and communication of that system by the  
6 firm; and

7 (3) perform such other testing of the audit, su-  
8 pervisory, and quality control procedures of the firm  
9 as are necessary or appropriate in light of the pur-  
10 pose of the inspection and the responsibilities of the  
11 Board.

12 (e) RECORD RETENTION.—The rules of the Board  
13 may require the retention by registered public accounting  
14 firms for inspection purposes of records whose retention  
15 is not otherwise required by section 103 or the rules issued  
16 thereunder.

17 (f) PROCEDURES FOR REVIEW.—The rules of the  
18 Board shall provide a procedure for the review of and re-  
19 sponse to a draft inspection report by the registered public  
20 accounting firm under inspection. The Board shall take  
21 such action with respect to such response as it considers  
22 appropriate (including revising the draft report or con-  
23 tinuing or supplementing its inspection activities before  
24 issuing a final report), but the text of any such response,  
25 appropriately redacted to protect information reasonably

1 identified by the accounting firm as confidential, shall be  
2 attached to and made part of the inspection report.

3 (g) REPORT.—A written report of the findings of the  
4 Board for each inspection under this section, subject to  
5 subsection (h), shall be—

6 (1) transmitted, in appropriate detail, to the  
7 Commission and each appropriate State regulatory  
8 authority, accompanied by any letter or comments  
9 by the Board or the inspector, and any letter of re-  
10 sponse from the registered public accounting firm;  
11 and

12 (2) made available in appropriate detail to the  
13 public (subject to section 105(b)(5)(A), and to the  
14 protection of such confidential and proprietary infor-  
15 mation as the Board may determine to be appro-  
16 priate, or as may be required by law), except that  
17 no portions of the inspection report that deal with  
18 criticisms of or potential defects in the quality con-  
19 trol systems of the firm under inspection shall be  
20 made public if those criticisms or defects are ad-  
21 dressed by the firm, to the satisfaction of the Board,  
22 not later than 12 months after the date of the in-  
23 spection report.

24 (h) INTERIM COMMISSION REVIEW.—

1           (1) REVIEWABLE MATTERS.—A registered pub-  
2           lic accounting firm may seek review by the Commis-  
3           sion, pursuant to such rules as the Commission shall  
4           promulgate, if the firm—

5                   (A) has provided the Board with a re-  
6                   sponse, pursuant to rules issued by the Board  
7                   under subsection (f), to the substance of par-  
8                   ticular items in a draft inspection report, and  
9                   disagrees with the assessments contained in any  
10                  final report prepared by the Board following  
11                  such response; or

12                  (B) disagrees with the determination of the  
13                  Board that criticisms or defects identified in an  
14                  inspection report have not been addressed to  
15                  the satisfaction of the Board within 12 months  
16                  of the date of the inspection report, for pur-  
17                  poses of subsection (g)(2).

18           (2) TREATMENT OF REVIEW.—Any decision of  
19           the Commission with respect to a review under para-  
20           graph (1) shall not be reviewable under section 25  
21           of the Securities Exchange Act of 1934 (15 U.S.C.  
22           78y), or deemed to be “final agency action” for pur-  
23           poses of section 704 of title 5, United States Code.

24           (3) TIMING.—Review under paragraph (1) may  
25           be sought during the 30-day period following the

1 date of the event giving rise to the review under sub-  
2 paragraph (A) or (B) of paragraph (1).

3 **SEC. 105. INVESTIGATIONS AND DISCIPLINARY PRO-**  
4 **CEEDINGS.**

5 (a) IN GENERAL.—The Board shall establish, by  
6 rule, subject to the requirements of this section, fair proce-  
7 dures for the investigation and disciplining of registered  
8 public accounting firms and associated persons of such  
9 firms.

10 (b) INVESTIGATIONS.—

11 (1) AUTHORITY.—In accordance with the rules  
12 of the Board, the Board may conduct an investiga-  
13 tion of any act or practice, or omission to act, by a  
14 registered public accounting firm, any associated  
15 person of such firm, or both, that may violate any  
16 provision of this Act, the rules of the Board, the  
17 provisions of the securities laws relating to the prep-  
18 aration and issuance of audit reports and the obliga-  
19 tions and liabilities of accountants with respect  
20 thereto, including the rules of the Commission issued  
21 under this Act, or professional standards, regardless  
22 of how the act, practice, or omission is brought to  
23 the attention of the Board.

24 (2) TESTIMONY AND DOCUMENT PRODUC-  
25 TION.—In addition to such other actions as the

1 Board determines to be necessary or appropriate,  
2 the rules of the Board may—

3 (A) require the testimony of the firm or of  
4 any person associated with a registered public  
5 accounting firm, with respect to any matter  
6 that the Board considers relevant or material to  
7 an investigation;

8 (B) require the production of audit work  
9 papers and any other document or information  
10 in the possession of a registered public account-  
11 ing firm or any associated person thereof, wher-  
12 ever domiciled, that the Board considers rel-  
13 evant or material to the investigation, and may  
14 inspect the books and records of such firm or  
15 associated person to verify the accuracy of any  
16 documents or information supplied;

17 (C) request the testimony of, and produc-  
18 tion of any document in the possession of, any  
19 other person, including any client of a reg-  
20 istered public accounting firm that the Board  
21 considers relevant or material to an investiga-  
22 tion under this section, with appropriate notice,  
23 subject to the needs of the investigation, as per-  
24 mitted under the rules of the Board; and

1 (D) provide for procedures to seek issuance  
2 by the Commission, in a manner established by  
3 the Commission, of a subpoena to require the  
4 testimony of, and production of any document  
5 in the possession of, any person, including any  
6 client of a registered public accounting firm,  
7 that the Board considers relevant or material to  
8 an investigation under this section.

9 (3) NONCOOPERATION WITH INVESTIGA-  
10 TIONS.—

11 (A) IN GENERAL.—If a registered public  
12 accounting firm or any associated person there-  
13 of refuses to testify, produce documents, or oth-  
14 erwise cooperate with the Board in connection  
15 with an investigation under this section, the  
16 Board may—

17 (i) suspend or bar such person from  
18 being associated with a registered public  
19 accounting firm, or require the registered  
20 public accounting firm to end such associa-  
21 tion;

22 (ii) suspend or revoke the registration  
23 of the public accounting firm; and

1 (iii) invoke such other lesser sanctions  
2 as the Board considers appropriate, and as  
3 specified by rule of the Board.

4 (B) PROCEDURE.—Any action taken by  
5 the Board under this paragraph shall be subject  
6 to the terms of section 107(c).

7 (4) REFERRAL.—The Board may refer an in-  
8 vestigation under this section—

9 (A) to the Commission;

10 (B) to any other Federal functional regu-  
11 lator (as defined in section 509 of the Gramm-  
12 Leach-Bliley Act (15 U.S.C. 6809)), in the case  
13 of an investigation that concerns an audit re-  
14 port for an institution that is subject to the ju-  
15 risdiction of such regulator; and

16 (C) at the direction of the Commission,  
17 to—

18 (i) the Attorney General of the United  
19 States;

20 (ii) the attorney general of 1 or more  
21 States; and

22 (iii) the appropriate State regulatory  
23 authority.

24 (5) USE OF DOCUMENTS.—

1 (A) CONFIDENTIALITY.—Except as pro-  
2 vided in subparagraph (B), all documents and  
3 information prepared or received by or specifi-  
4 cally for the Board, and deliberations of the  
5 Board and its employees and agents, in connec-  
6 tion with an inspection under section 104 or  
7 with an investigation under this section, shall  
8 be confidential and privileged as an evidentiary  
9 matter (and shall not be subject to civil dis-  
10 covery or other legal process) in any proceeding  
11 in any Federal or State court or administrative  
12 agency, and shall be exempt from disclosure, in  
13 the hands of an agency or establishment of the  
14 Federal Government, under the Freedom of In-  
15 formation Act (5 U.S.C. 552a), or otherwise,  
16 unless and until presented in connection with a  
17 public proceeding or released in accordance with  
18 subsection (c).

19 (B) AVAILABILITY TO GOVERNMENT AGEN-  
20 CIES.—All information referred to in subpara-  
21 graph (A) may, in the discretion of the Board,  
22 when determined by the Board to be necessary  
23 to accomplish the purposes of this Act or to  
24 protect investors, and without the loss of its  
25 status as confidential and privileged in the

1 hands of the Board, be made available to the  
2 Commission, the Attorney General of the  
3 United States, to the appropriate Federal func-  
4 tional regulator (as defined in section 509 of  
5 the Gramm-Leach-Bliley Act (15 U.S.C.  
6 6809)), other than the Commission, with re-  
7 spect to an audit report for an institution sub-  
8 ject to the jurisdiction of such regulator, to  
9 State attorneys general in connection with any  
10 criminal investigation, and to any appropriate  
11 State regulatory authority, which shall maintain  
12 such information as confidential and privileged.

13 (6) IMMUNITY.—Any employee of the Board en-  
14 gaged in carrying out an investigation under this  
15 Act shall be immune from any civil liability arising  
16 out of such investigation in the same manner and to  
17 the same extent as an employee of the Federal Gov-  
18 ernment in similar circumstances.

19 (c) DISCIPLINARY PROCEDURES.—

20 (1) NOTIFICATION; RECORDKEEPING.—The  
21 rules of the Board shall provide that in any pro-  
22 ceeding by the Board to determine whether a reg-  
23 istered public accounting firm, or an associated per-  
24 son thereof, should be disciplined, the Board shall—

1 (A) bring specific charges with respect to  
2 the firm or associated person;

3 (B) notify such firm or associated person  
4 of, and provide to the firm or associated person  
5 an opportunity to defend against, such charges;  
6 and

7 (C) keep a record of the proceedings.

8 (2) PUBLIC HEARINGS.—Hearings under this  
9 section shall not be public, unless otherwise ordered  
10 by the Board for good cause shown, with the consent  
11 of the parties to such hearing.

12 (3) SUPPORTING STATEMENT.—A determina-  
13 tion by the Board to impose a sanction under this  
14 subsection shall be supported by a statement setting  
15 forth—

16 (A) each act or practice in which the reg-  
17 istered public accounting firm, or associated  
18 person, has engaged (or omitted to engage), or  
19 that forms a basis for all or a part of such  
20 sanction;

21 (B) the specific provision of this Act, the  
22 securities laws, the rules of the Board, or pro-  
23 fessional standards which the Board determines  
24 has been violated; and

1           (C) the sanction imposed, including a jus-  
2           tification for that sanction.

3           (4) SANCTIONS.—If the Board finds, based on  
4           all of the facts and circumstances, that a registered  
5           public accounting firm or associated person thereof  
6           has engaged in any act or practice, or omitted to  
7           act, in violation of this Act, the rules of the Board,  
8           the provisions of the securities laws relating to the  
9           preparation and issuance of audit reports and the  
10          obligations and liabilities of accountants with respect  
11          thereto, including the rules of the Commission issued  
12          under this Act, or professional standards, the Board  
13          may impose such disciplinary or remedial sanctions  
14          as it determines appropriate, subject to applicable  
15          limitations under paragraph (5), including—

16                (A) temporary suspension or permanent  
17                revocation of registration under this title;

18                (B) temporary or permanent suspension or  
19                bar of a person from further association with  
20                any registered public accounting firm;

21                (C) temporary or permanent limitation on  
22                the activities, functions, or operations of such  
23                firm or person (other than in connection with  
24                required additional professional education or  
25                training);

1 (D) a civil money penalty for each such  
2 violation, in an amount equal to—

3 (i) not more than \$100,000 for a nat-  
4 ural person or \$2,000,000 for any other  
5 person; and

6 (ii) in any case to which paragraph  
7 (5) applies, not more than \$750,000 for a  
8 natural person or \$15,000,000 for any  
9 other person;

10 (E) censure;

11 (F) required additional professional edu-  
12 cation or training; or

13 (G) any other appropriate sanction pro-  
14 vided for in the rules of the Board.

15 (5) INTENTIONAL OR OTHER KNOWING CON-  
16 DUCT.—The sanctions and penalties described in  
17 subparagraphs (A) through (C) and (D)(ii) of para-  
18 graph (4) shall only apply to—

19 (A) intentional or knowing conduct, includ-  
20 ing reckless conduct, that results in violation of  
21 the applicable statutory, regulatory, or profes-  
22 sional standard; or

23 (B) repeated instances of negligent con-  
24 duct, each resulting in a violation of the appli-

1 cable statutory, regulatory, or professional  
2 standard.

3 (6) FAILURE TO SUPERVISE.—

4 (A) IN GENERAL.—The Board may impose  
5 sanctions under this section on a registered ac-  
6 counting firm or upon the supervisory personnel  
7 of such firm, if the Board finds that—

8 (i) the firm has failed reasonably to  
9 supervise an associated person, either as  
10 required by the rules of the Board relating  
11 to auditing or quality control standards, or  
12 otherwise, with a view to preventing viola-  
13 tions of this Act, the rules of the Board,  
14 the provisions of the securities laws relat-  
15 ing to the preparation and issuance of  
16 audit reports and the obligations and li-  
17 abilities of accountants with respect there-  
18 to, including the rules of the Commission  
19 under this Act, or professional standards;  
20 and

21 (ii) such associated person commits a  
22 violation of this Act, or any of such rules,  
23 laws, or standards.

24 (B) RULE OF CONSTRUCTION.—No associ-  
25 ated person of a registered public accounting

1 firm shall be deemed to have failed reasonably  
2 to supervise any other person for purposes of  
3 subparagraph (A), if—

4 (i) there have been established in and  
5 for that firm procedures, and a system for  
6 applying such procedures, that comply with  
7 applicable rules of the Board and that  
8 would reasonably be expected to prevent  
9 and detect any such violation by such asso-  
10 ciated person; and

11 (ii) such person has reasonably dis-  
12 charged the duties and obligations incum-  
13 bent upon that person by reason of such  
14 procedures and system, and had no reason-  
15 able cause to believe that such procedures  
16 and system were not being complied with.

17 (7) EFFECT OF SUSPENSION.—

18 (A) ASSOCIATION WITH A PUBLIC AC-  
19 COUNTING FIRM.—It shall be unlawful for any  
20 person that is suspended or barred from being  
21 associated with a registered public accounting  
22 firm under this subsection willfully to become  
23 or remain associated with any registered public  
24 accounting firm, or for any registered public ac-  
25 counting firm that knew, or, in the exercise of

1 reasonable care should have known, of the sus-  
2 pension or bar, to permit such an association,  
3 without the consent of the Board or the Com-  
4 mission.

5 (B) ASSOCIATION WITH AN ISSUER.—It  
6 shall be unlawful for any person that is sus-  
7 pended or barred from being associated with an  
8 issuer under this subsection willfully to become  
9 or remain associated with any issuer in an ac-  
10 countancy or a financial management capacity,  
11 and for any issuer that knew, or in the exercise  
12 of reasonable care should have known, of such  
13 suspension or bar, to permit such an associa-  
14 tion, without the consent of the Board or the  
15 Commission.

16 (d) REPORTING OF SANCTIONS.—

17 (1) RECIPIENTS.—If the Board imposes a dis-  
18 ciplinary sanction, in accordance with this section,  
19 the Board shall report the sanction to—

20 (A) the Commission;

21 (B) any appropriate State regulatory au-  
22 thority or any foreign accountancy licensing  
23 board with which such firm or person is li-  
24 censed or certified; and

1 (C) the public (once any stay on the im-  
2 position of such sanction has been lifted).

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

5 (A) the name of the sanctioned person;

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

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

10 (e) STAY OF SANCTIONS.—

11 (1) IN GENERAL.—Application to the Commis-  
12 sion for review, or the institution by the Commission  
13 of review, of any disciplinary action of the Board  
14 shall operate as a stay of any such disciplinary ac-  
15 tion, unless and until the Commission orders (sum-  
16 marily or after notice and opportunity for hearing on  
17 the question of a stay, which hearing may consist  
18 solely of the submission of affidavits or presentation  
19 of oral arguments) that no such stay shall continue  
20 to operate.

21 (2) EXPEDITED PROCEDURES.—The Commis-  
22 sion shall establish for appropriate cases an expe-  
23 dited procedure for consideration and determination  
24 of the question of the duration of a stay pending re-

1 view of any disciplinary action of the Board under  
2 this subsection.

3 **SEC. 106. FOREIGN PUBLIC ACCOUNTING FIRMS.**

4 (a) **APPLICABILITY TO CERTAIN FOREIGN FIRMS.—**

5 (1) **IN GENERAL.—**Any foreign public account-  
6 ing firm that prepares or furnishes an audit report  
7 with respect to any issuer, shall be subject to this  
8 Act and the rules of the Board and the Commission  
9 issued under this Act, in the same manner and to  
10 the same extent as a public accounting firm that is  
11 organized and operates under the laws of the United  
12 States or any State, except that registration pursu-  
13 ant to section 102 shall not by itself provide a basis  
14 for subjecting such a foreign public accounting firm  
15 to the jurisdiction of the Federal or State courts,  
16 other than with respect to controversies between  
17 such firms and the Board.

18 (2) **BOARD AUTHORITY.—**The Board may, by  
19 rule, determine that a foreign public accounting firm  
20 (or a class of such firms) that does not issue audit  
21 reports nonetheless plays such a substantial role in  
22 the preparation and furnishing of such reports for  
23 particular issuers, that it is necessary or appro-  
24 priate, in light of the purposes of this Act and in the  
25 public interest or for the protection of investors, that

1 such firm (or class of firms) should be treated as a  
2 public accounting firm (or firms) for purposes of  
3 registration under, and oversight by the Board in ac-  
4 cordance with, this title.

5 (b) PRODUCTION OF AUDIT WORKPAPERS.—

6 (1) CONSENT BY FOREIGN FIRMS.—If a foreign  
7 public accounting firm issues an opinion or other-  
8 wise performs material services upon which a reg-  
9 istered public accounting firm relies in issuing all or  
10 part of any audit report or any opinion contained in  
11 an audit report, that foreign public accounting firm  
12 shall be deemed to have consented—

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

17 (B) to be subject to the jurisdiction of the  
18 courts of the United States for purposes of en-  
19 forcement of any request for production of such  
20 workpapers.

21 (2) CONSENT BY DOMESTIC FIRMS.—A reg-  
22 istered public accounting firm that relies upon the  
23 opinion of a foreign public accounting firm, as de-  
24 scribed in paragraph (1), shall be deemed—

1 (A) to have consented to supplying the  
2 audit workpapers of that foreign public ac-  
3 counting firm in response to a request for pro-  
4 duction by the Board or the Commission; and

5 (B) to have secured the agreement of that  
6 foreign public accounting firm to such produc-  
7 tion, as a condition of its reliance on the opin-  
8 ion of that foreign public accounting firm.

9 (c) EXEMPTION AUTHORITY.—The Commission, and  
10 the Board, subject to the approval of the Commission,  
11 may, by rule, regulation, or order, and as the Commission  
12 (or Board) determines necessary or appropriate in the  
13 public interest or for the protection of investors, either un-  
14 conditionally or upon specified terms and conditions ex-  
15 empt any foreign public accounting firm, or any class of  
16 such firms, from any provision of this Act or the rules  
17 of the Board or the Commission issued under this Act.

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

22 **SEC. 107. COMMISSION OVERSIGHT OF THE BOARD.**

23 (a) GENERAL OVERSIGHT RESPONSIBILITY.—The  
24 Commission shall have oversight and enforcement author-  
25 ity over the Board, as provided in this Act.

1 (b) RULES OF THE BOARD.—

2 (1) DEFINITION.—In this section, the term  
3 “proposed rule” means any proposed rule of the  
4 Board, and any modification of any such rule.

5 (2) PRIOR APPROVAL REQUIRED.—No rule of  
6 the Board shall become effective without prior ap-  
7 proval of the Commission in accordance with this  
8 section, other than as provided in section  
9 103(a)(3)(B) with respect to initial or transitional  
10 standards.

11 (3) APPROVAL CRITERIA.—The Commission  
12 shall approve a proposed rule, if it finds that the  
13 rule is consistent with the requirements of this Act  
14 and the securities laws, or is necessary or appro-  
15 priate in the public interest or for the protection of  
16 investors.

17 (4) PROPOSED RULE PROCEDURES.—The provi-  
18 sions of paragraphs (1) through (3) of section 19(b)  
19 of the Securities Exchange Act of 1934 (15 U.S.C.  
20 78s(b)) shall govern the proposed rules of the  
21 Board, as fully as if the Board were a “registered  
22 securities association” for purposes of that section  
23 19(b), except that, for purposes of this paragraph—

24 (A) the phrase “consistent with the re-  
25 quirements of this title and the rules and regu-

1           lations thereunder applicable to such organiza-  
2           tion” in section 19(b)(2) of that Act shall be  
3           deemed to read “consistent with the require-  
4           ments of title I of the Public Company Ac-  
5           counting Reform and Investor Protection Act of  
6           2002, and the rules and regulations issued  
7           thereunder applicable to such organization, or  
8           as necessary or appropriate in the public inter-  
9           est or for the protection of investors”; and

10           (B) the phrase “otherwise in furtherance  
11           of the purposes of this title” in section  
12           19(b)(3)(C) of that Act shall be deemed to read  
13           “otherwise in furtherance of the purposes of  
14           title I of the Public Company Accounting Re-  
15           form and Investor Protection Act of 2002”.

16           (5) COMMISSION AUTHORITY TO AMEND RULES  
17           OF THE BOARD.—The provisions of section 19(e) of  
18           the Securities Exchange Act of 1934 (15 U.S.C.  
19           78s(c)) shall govern the abrogation, deletion, or ad-  
20           dition to portions of the rules of the Board by the  
21           Commission as fully as if the Board were a “reg-  
22           istered securities association” for purposes of that  
23           section 19(e), except that the phrase “to conform its  
24           rules to the requirements of this title and the rules  
25           and regulations thereunder applicable to such orga-

1 nization, or otherwise in furtherance of the purposes  
2 of this title” in section 19(c) of that Act shall, for  
3 purposes of this paragraph, be deemed to read “to  
4 assure the fair administration of the Public Com-  
5 pany Accounting Oversight Board, conform the rules  
6 promulgated by that Board to the requirements of  
7 title I of the Public Company Accounting Reform  
8 and Investor Protection Act of 2002, or otherwise  
9 further the purposes of that Act, the securities laws,  
10 and the rules and regulations thereunder applicable  
11 to that Board”.

12 (c) COMMISSION REVIEW OF DISCIPLINARY ACTION  
13 TAKEN BY THE BOARD.—

14 (1) NOTICE OF SANCTION.—The Board shall  
15 promptly file notice with the Commission of any  
16 final sanction on any registered public accounting  
17 firm or on any associated person thereof, in such  
18 form and containing such information as the Com-  
19 mission, by rule, may prescribe.

20 (2) REVIEW OF SANCTIONS.—The provisions of  
21 sections 19(d)(2) and 19(e)(1) of the Securities Ex-  
22 change Act of 1934 (15 U.S.C. 78s (d)(2) and  
23 (e)(1)) shall govern the review by the Commission of  
24 final disciplinary sanctions imposed by the Board  
25 (including sanctions imposed under section

1 105(b)(3) of this Act for noncooperation in an inves-  
2 tigation of the Board), as fully as if the Board were  
3 a self-regulatory organization and the Commission  
4 were the appropriate regulatory agency for such or-  
5 ganization for purposes of those sections 19(d)(2)  
6 and 19(e)(1), except that, for purposes of this  
7 paragraph—

8 (A) section 105(e) of this Act (rather than  
9 that section 19(d)(2)) shall govern the extent to  
10 which application for, or institution by the  
11 Commission on its own motion of, review of any  
12 disciplinary action of the Board operates as a  
13 stay of such action;

14 (B) references in that section 19(e)(1) to  
15 “members” of such an organization shall be  
16 deemed to be references to registered public ac-  
17 counting firms;

18 (C) the phrase “consistent with the pur-  
19 poses of this title” in that section 19(e)(1) shall  
20 be deemed to read “consistent with the pur-  
21 poses of this title and title I of the Public Com-  
22 pany Accounting Reform and Investor Protec-  
23 tion Act of 2002”;

1 (D) references to rules of the Municipal  
 2 Securities Rulemaking Board in that section  
 3 19(e)(1) shall not apply; and

4 (E) the reference to section 19(e)(2) of the  
 5 Securities Exchange Act of 1934 shall refer in-  
 6 stead to section 107(e)(3) of this Act.

7 (3) COMMISSION MODIFICATION AUTHORITY.—

8 The Commission may enhance, modify, cancel, re-  
 9 duce, or require the remission of a sanction imposed  
 10 by the Board upon a registered public accounting  
 11 firm or associated person thereof, if the Commission,  
 12 having due regard for the public interest and the  
 13 protection of investors, finds, after a proceeding in  
 14 accordance with this subsection, that the sanction—

15 (A) is not necessary or appropriate in fur-  
 16 therance of this Act or the securities laws; or

17 (B) is excessive, oppressive, inadequate, or  
 18 otherwise not appropriate to the finding or the  
 19 basis on which the sanction was imposed.

20 (d) CENSURE OF THE BOARD; OTHER SANCTIONS.—

21 (1) RESCISSION OF BOARD AUTHORITY.—The  
 22 Commission, by rule, consistent with the public in-  
 23 terest, the protection of investors, and the other pur-  
 24 poses of this Act and the securities laws, may relieve  
 25 the Board of any responsibility to enforce compli-

1       ance with any provision of this Act, the securities  
2       laws, the rules of the Board, or professional stand-  
3       ards.

4               (2) CENSURE OF THE BOARD; LIMITATIONS.—  
5       The Commission may, by order, as it determines  
6       necessary or appropriate in the public interest, for  
7       the protection of investors, or otherwise in further-  
8       ance of the purposes of this Act or the securities  
9       laws, censure or impose limitations upon the activi-  
10      ties, functions, and operations of the Board, if the  
11      Commission finds, on the record, after notice and  
12      opportunity for a hearing, that the Board—

13               (A) has violated or is unable to comply  
14               with any provision of this Act, the rules of the  
15               Board, or the securities laws; or

16               (B) without reasonable justification or ex-  
17               cuse, has failed to enforce compliance with any  
18               such provision or rule, or any professional  
19               standard by a registered public accounting firm  
20               or an associated person thereof.

21               (3) CENSURE OF BOARD MEMBERS; REMOVAL  
22      FROM OFFICE.—The Commission may, as necessary  
23      or appropriate in the public interest, for the protec-  
24      tion of investors, or otherwise in furtherance of the  
25      purposes of this Act or the securities laws, remove

1 from office or censure any member of the Board, if  
2 the Commission finds, on the record, after notice  
3 and opportunity for a hearing, that such member—

4 (A) has willfully violated any provision of  
5 this Act, the rules of the Board, or the securi-  
6 ties laws;

7 (B) has willfully abused the authority of  
8 that member; or

9 (C) without reasonable justification or ex-  
10 cuse, has failed to enforce compliance with any  
11 such provision or rule, or any professional  
12 standard by any registered public accounting  
13 firm or any associated person thereof.

14 **SEC. 108. ACCOUNTING STANDARDS.**

15 (a) AMENDMENT TO SECURITIES ACT OF 1933.—

16 Section 19 of the Securities Act of 1933 (15 U.S.C. 77s)  
17 is amended—

18 (1) by redesignating subsections (b) and (c) as  
19 subsections (c) and (d), respectively; and

20 (2) by inserting after subsection (a) the fol-  
21 lowing:

22 “(b) RECOGNITION OF ACCOUNTING STANDARDS.—

23 “(1) IN GENERAL.—In carrying out its author-  
24 ity under subsection (a) and under section 13(b) of  
25 the Securities Exchange Act of 1934, the Commis-

1 sion may recognize, as ‘generally accepted’ for pur-  
2 poses of the securities laws, any accounting prin-  
3 ciples established by a standard setting body—

4 “(A) that—

5 “(i) is organized as a private entity;

6 “(ii) has, for administrative and oper-  
7 ational purposes, a board of trustees (or  
8 equivalent body) serving in the public in-  
9 terest, the majority of whom are not, con-  
10 current with their service on such board,  
11 and have not been during the 2-year period  
12 preceding such service, associated persons  
13 of any registered public accounting firm;

14 “(iii) is funded as provided in section  
15 109 of the Public Company Accounting  
16 Reform and Investor Protection Act of  
17 2002;

18 “(iv) has adopted procedures to en-  
19 sure prompt consideration, by majority  
20 vote of its members, of changes to account-  
21 ing principles necessary to reflect emerging  
22 accounting issues and changing business  
23 practices;

24 “(v) considers, in adopting accounting  
25 principles, the need to keep standards cur-

1           rent in order to reflect changes in the busi-  
2           ness environment, the extent to which  
3           international convergence on high quality  
4           accounting standards is necessary or ap-  
5           propriate in the public interest and for the  
6           protection of investors; and

7           “(B) that the Commission determines has  
8           the capacity to assist the Commission in ful-  
9           filling the requirements of subsection (a) and  
10          section 13(b) of the Securities Exchange Act of  
11          1934, because, at a minimum, the standard set-  
12          ting body is capable of improving the accuracy  
13          and effectiveness of financial reporting and the  
14          protection of investors under the securities  
15          laws.

16          “(2) ANNUAL REPORT.—A standard setting  
17          body described in paragraph (1) shall submit an an-  
18          nual report to the Commission and the public, con-  
19          taining audited financial statements of that standard  
20          setting body.”.

21          (b) COMMISSION AUTHORITY.—The Commission  
22          shall promulgate such rules and regulations to carry out  
23          section 19(b) of the Securities Act of 1933, as added by  
24          this section, as it deems necessary or appropriate in the  
25          public interest or for the protection of investors.

1           (c) NO EFFECT ON COMMISSION POWERS.—Nothing  
2 in this Act, including this section and the amendment  
3 made by this section, shall be construed to impair or limit  
4 the authority of the Commission to establish accounting  
5 principles or standards for purposes of enforcement of the  
6 securities laws.

7           (d) STUDY AND REPORT ON ADOPTING PRINCIPLES-  
8 BASED ACCOUNTING.—

9                 (1) STUDY.—

10                     (A) IN GENERAL.—The Commission shall  
11 conduct a study on the adoption by the United  
12 States financial reporting system of a prin-  
13 ciples-based accounting system.

14                     (B) STUDY TOPICS.—The study required  
15 by subparagraph (A) shall include an examina-  
16 tion of—

17                             (i) the extent to which principles-  
18 based accounting and financial reporting  
19 exists in the United States;

20                             (ii) the length of time required for  
21 change from a rules-based to a principles-  
22 based financial reporting system;

23                             (iii) the feasibility of and proposed  
24 methods by which a principles-based sys-  
25 tem may be implemented; and

1 (iv) a thorough economic analysis of  
2 the implementation of a principles-based  
3 system.

4 (2) REPORT.—Not later than 1 year after the  
5 date of enactment of this Act, the Commission shall  
6 submit a report on the results of the study required  
7 by paragraph (1) to the Committee on Banking,  
8 Housing, and Urban Affairs of the Senate and the  
9 Committee on Financial Services of the House of  
10 Representatives.

11 **SEC. 109. FUNDING.**

12 (a) IN GENERAL.—The Board, and the standard set-  
13 ting body designated pursuant to section 19(b) of the Se-  
14 curities Act of 1933, as amended by section 108, shall be  
15 funded as provided in this section.

16 (b) ANNUAL BUDGETS.—The Board and the stand-  
17 ard setting body referred to in subsection (a) shall each  
18 establish a budget for each fiscal year, which shall be re-  
19 viewed and approved according to their respective internal  
20 procedures not less than 1 month prior to the commence-  
21 ment of the fiscal year to which the budget pertains. The  
22 budget of the Board shall be subject to approval by the  
23 Commission.

24 (c) SOURCES AND USES OF FUNDS.—

1           (1) RECOVERABLE BUDGET EXPENSES.—The  
2 budget of the Board (reduced by any registration or  
3 annual fees received under section 102(e) for the  
4 year preceding the year for which the budget is  
5 being computed), and all of the budget of the stand-  
6 ard setting body referred to in subsection (a), for  
7 each fiscal year of each of those 2 entities, shall be  
8 payable from annual accounting support fees, in ac-  
9 cordance with subsections (d) and (e).

10           (2) FUNDS GENERATED FROM THE COLLEC-  
11 TION OF MONETARY PENALTIES.—All funds collected  
12 by the Board as a result of the assessment of mone-  
13 tary penalties shall be used to fund a merit scholar-  
14 ship program for undergraduate and graduate stu-  
15 dents enrolled in accredited accounting degree pro-  
16 grams, which program is to be administered by the  
17 Board or by an entity or agent identified by the  
18 Board.

19           (d) ANNUAL ACCOUNTING SUPPORT FEE FOR THE  
20 BOARD.—

21           (1) ESTABLISHMENT OF FEE.—The Board shall  
22 establish, with the approval of the Commission, a  
23 reasonable annual accounting support fee (or a for-  
24 mula for the computation thereof), as may be nec-

1        essary or appropriate to establish and maintain the  
2        Board.

3           (2) ASSESSMENTS.—The rules of the Board  
4        under paragraph (1) shall provide for the equitable  
5        allocation, assessment, and collection by the Board  
6        (or an agent appointed by the Board) of the fee es-  
7        tablished under paragraph (1), among issuers, in ac-  
8        cordance with subsection (f), allowing for differentia-  
9        tion among classes of issuers, as appropriate.

10       (e) ANNUAL ACCOUNTING SUPPORT FEE FOR  
11       STANDARD SETTING BODY.—The annual accounting sup-  
12       port fee for the standard setting body referred to in sub-  
13       section (a)—

14           (1) shall be allocated in accordance with sub-  
15        section (f), and assessed and collected against each  
16        issuer, on behalf of the standard setting body, by 1  
17        or more appropriate designated collection agents, as  
18        may be necessary or appropriate to pay for the  
19        budget and provide for the expenses of that standard  
20        setting body, and to provide for an independent, sta-  
21        ble source of funding for such body, subject to re-  
22        view by the Commission; and

23           (2) may differentiate among different classes of  
24        issuers.

1 (f) ALLOCATION OF ACCOUNTING SUPPORT FEES  
2 AMONG ISSUERS.—Any amount due from issuers (or a  
3 particular class of issuers) under this section to fund the  
4 budget of the Board or the standard setting body referred  
5 to in subsection (a) shall be allocated among and payable  
6 by each issuer (or each issuer in a particular class, as ap-  
7 plicable) in an amount equal to the total of such amount,  
8 multiplied by a fraction—

9 (1) the numerator of which is the average  
10 monthly equity market capitalization of the issuer  
11 for the 12-month period immediately preceding the  
12 beginning of the fiscal year to which such budget re-  
13 lates; and

14 (2) the denominator of which is the average  
15 monthly equity market capitalization of all such  
16 issuers for such 12-month period.

17 (g) CONFORMING AMENDMENTS.—Section 13(b)(2)  
18 of the Securities Exchange Act of 1934 (15 U.S.C.  
19 78m(b)(2)) is amended—

20 (1) in subparagraph (A), by striking “and” at  
21 the end;

22 (2) in subparagraph (B), by striking the period  
23 at the end and inserting the following: “; and

24 “(C) notwithstanding any other provision of  
25 law, pay the allocable share of such issuer of a rea-

1       sonable annual accounting support fee or fees, deter-  
 2       mined in accordance with section 109 of the Public  
 3       Company Accounting Reform and Investor Protec-  
 4       tion Act of 2002.”.

5       (h) RULE OF CONSTRUCTION.—Nothing in this sec-  
 6       tion shall be construed to render either the Board, the  
 7       standard setting body referred to in subsection (a), or  
 8       both, subject to procedures in Congress to authorize or  
 9       appropriate public funds, or to prevent such organization  
 10      from utilizing additional sources of revenue for its activi-  
 11      ties, such as earnings from publication sales, provided that  
 12      each additional source of revenue shall not jeopardize, in  
 13      the judgment of the Commission, the actual and perceived  
 14      independence of such organization.

## 15                                   **TITLE II—AUDITOR** 16                                   **INDEPENDENCE**

### 17      **SEC. 201. SERVICES OUTSIDE THE SCOPE OF PRACTICE OF** 18                                   **AUDITORS.**

19       (a) PROHIBITED ACTIVITIES.—Section 10A of the  
 20      Securities Exchange Act of 1934 (15 U.S.C. 78j–1) is  
 21      amended by adding at the end the following:

22       “(g) PROHIBITED ACTIVITIES.—It shall be unlawful  
 23      for a registered public accounting firm (and any associated  
 24      person of that firm, to the extent determined appropriate  
 25      by the Commission) that performs for any issuer any audit

1 required by this title or the rules of the Commission under  
2 this title or, beginning 180 days after the date of com-  
3 mencement of the operations of the Public Company Ac-  
4 counting Oversight Board established under section 101  
5 of the Public Company Accounting Reform and Investor  
6 Protection Act of 2002 (in this section referred to as the  
7 ‘Board’), the rules of the Board, to provide to that issuer,  
8 contemporaneously with the audit, any non-audit service,  
9 including—

10           “(1) bookkeeping or other services related to  
11           the accounting records or financial statements of the  
12           audit client;

13           “(2) financial information systems design and  
14           implementation;

15           “(3) appraisal or valuation services, fairness  
16           opinions, or contribution-in-kind reports;

17           “(4) actuarial services;

18           “(5) internal audit outsourcing services;

19           “(6) management functions or human re-  
20           sources;

21           “(7) broker or dealer, investment adviser, or in-  
22           vestment banking services;

23           “(8) legal services and expert services unrelated  
24           to the audit; and

1           “(9) any other service that the Board deter-  
2           mines, by regulation, is impermissible.

3           “(h) PREAPPROVAL REQUIRED FOR NON-AUDIT  
4 SERVICES.—A registered public accounting firm may en-  
5 gage in any non-audit service, including tax services, that  
6 is not described in any of paragraphs (1) through (9) of  
7 subsection (g) for an audit client, only if the activity is  
8 approved in advance by the audit committee of the issuer,  
9 in accordance with subsection (i).”.

10          (b) EXEMPTION AUTHORITY.—The Board may, on a  
11 case by case basis, exempt any person, issuer, public ac-  
12 counting firm, or transaction from the prohibition on the  
13 provision of services under section 10A(g) of the Securities  
14 Exchange Act of 1934 (as added by this section), to the  
15 extent that such exemption is necessary or appropriate in  
16 the public interest and is consistent with the protection  
17 of investors, and subject to review by the Commission in  
18 the same manner as for rules of the Board under section  
19 107.

20 **SEC. 202. PREAPPROVAL REQUIREMENTS.**

21          Section 10A of the Securities Exchange Act of 1934  
22 (15 U.S.C. 78j-1), as amended by this Act, is amended  
23 by adding at the end the following:

24          “(i) PREAPPROVAL REQUIREMENTS.—

25                 “(1) IN GENERAL.—

1           “(A) AUDIT COMMITTEE ACTION.—All au-  
2           diting services (which may entail providing com-  
3           fort letters in connection with securities  
4           underwritings) and non-audit services, other  
5           than as provided in subparagraph (B), provided  
6           to an issuer by the auditor of the issuer shall  
7           be preapproved by the audit committee of the  
8           issuer.

9           “(B) DE MINIMUS EXCEPTION.—The  
10          preapproval requirement under subparagraph  
11          (A) is waived with respect to the provision of  
12          non-audit services for an issuer, if—

13               “(i) the aggregate amount of all such  
14               non-audit services provided to the issuer  
15               constitutes not more than 5 percent of the  
16               total amount of revenues paid by the issuer  
17               to its auditor;

18               “(ii) such services were not recognized  
19               by the issuer at the time of the engage-  
20               ment to be non-audit services; and

21               “(iii) such services are promptly  
22               brought to the attention of the audit com-  
23               mittee of the issuer and approved by the  
24               audit committee prior to the completion of  
25               the audit, by 1 or more members of the

1           audit committee who are members of the  
2           board of directors to whom authority to  
3           grant such approvals has been delegated by  
4           the audit committee.

5           “(2) DISCLOSURE TO INVESTORS.—Approval by  
6           an audit committee of an issuer under this sub-  
7           section of a non-audit service to be performed by the  
8           auditor of the issuer shall be disclosed to investors  
9           in periodic reports required by section 13(a).

10          “(3) DELEGATION AUTHORITY.—The audit  
11          committee of an issuer may delegate to 1 or more  
12          designated members of the audit committee who are  
13          independent directors of the board of directors, the  
14          authority to grant preapprovals required by this sub-  
15          section. The decisions of any member to whom au-  
16          thority is delegated under this paragraph to  
17          preapprove an activity under this subsection shall be  
18          presented to the full audit committee at each of its  
19          scheduled meetings.

20          “(4) APPROVAL OF AUDIT SERVICES FOR  
21          OTHER PURPOSES.—In carrying out its duties under  
22          subsection (m)(2), if the audit committee of an  
23          issuer approves an audit service within the scope of  
24          the engagement of the auditor, such audit service

1 shall be deemed to have been preapproved for pur-  
2 poses of this subsection.”.

3 **SEC. 203. AUDIT PARTNER ROTATION.**

4 Section 10A of the Securities Exchange Act of 1934  
5 (15 U.S.C. 78j-1), as amended by this Act, is amended  
6 by adding at the end the following:

7 “(j) **AUDIT PARTNER ROTATION.**—It shall be unlaw-  
8 ful for a registered public accounting firm to provide audit  
9 services to an issuer if the lead audit partner (having pri-  
10 mary responsibility for the audit) or the audit partner re-  
11 sponsible for reviewing the audit that is assigned to per-  
12 form those audit services has performed audit services for  
13 that issuer in each of the 5 previous fiscal years of that  
14 issuer.”.

15 **SEC. 204. AUDITOR REPORTS TO AUDIT COMMITTEES.**

16 Section 10A of the Securities Exchange Act of 1934  
17 (15 U.S.C. 78j-1), as amended by this Act, is amended  
18 by adding at the end the following:

19 “(k) **REPORTS TO AUDIT COMMITTEES.**—Each reg-  
20 istered public accounting firm that performs for any issuer  
21 any audit required by this title shall timely report to the  
22 audit committee of the issuer—

23 “(1) all critical accounting policies and prac-  
24 tices to be used;

1           “(2) all alternative treatments of financial in-  
2           formation within generally accepted accounting prin-  
3           ciples that have been discussed with management of-  
4           ficials of the issuer, ramifications of the use of such  
5           alternative disclosures and treatments, and the  
6           treatment preferred by the registered public account-  
7           ing firm; and

8           “(3) other material written communications be-  
9           tween the registered public accounting firm and the  
10          management of the issuer, such as any management  
11          letter or schedule of unadjusted differences.”.

12 **SEC. 205. CONFORMING AMENDMENTS.**

13          (a) DEFINITIONS.—Section 3(a) of the Securities Ex-  
14          change Act of 1934 (15 U.S.C. 78c(a)) is amended by  
15          adding at the end the following:

16                 “(58) AUDIT COMMITTEE.—The term ‘audit  
17                 committee’ means—

18                         “(A) a committee (or equivalent body) es-  
19                         tablished by and amongst the board of directors  
20                         of an issuer for the purpose of overseeing the  
21                         accounting and financial reporting processes of  
22                         the issuer and audits of the financial state-  
23                         ments of the issuer; and

1           “(B) if no such committee exists with re-  
2           spect to an issuer, the entire board of directors  
3           of the issuer.

4           “(59) REGISTERED PUBLIC ACCOUNTING  
5           FIRM.—The term ‘registered public accounting firm’  
6           has the same meaning as in section 3 of the Public  
7           Company Accounting Reform and Investor Protec-  
8           tion Act of 2002.”.

9           (b) AUDITOR REQUIREMENTS.—Section 10A of the  
10          Securities Exchange Act of 1934 (15 U.S.C. 78j–1) is  
11          amended—

12           (1) by striking “an independent public account-  
13           ant” each place that term appears and inserting “a  
14           registered public accounting firm”;

15           (2) by striking “the independent public ac-  
16           countant” each place that term appears and insert-  
17           ing “the registered public accounting firm”;

18           (3) in subsection (c), by striking “No inde-  
19           pendent public accountant” and inserting “No reg-  
20           istered public accounting firm”; and

21           (4) in subsection (b)—

22           (A) by striking “the accountant” each  
23           place that term appears and inserting “the  
24           firm”;

1 (B) by striking “such accountant” each  
 2 place that term appears and inserting “such  
 3 firm”; and

4 (C) in paragraph (4), by striking “the ac-  
 5 countant’s report” and inserting “the report of  
 6 the firm”.

7 (c) OTHER REFERENCES.—The Securities Exchange  
 8 Act of 1934 (15 U.S.C. 78a et seq.) is amended—

9 (1) in section 12(b)(1) (15 U.S.C. 78l(b)(1)),  
 10 by striking “independent public accountants” each  
 11 place that term appears and inserting “a registered  
 12 public accounting firm”; and

13 (2) in subsections (e) and (i) of section 17 (15  
 14 U.S.C. 78q), by striking “an independent public ac-  
 15 countant” each place that term appears and insert-  
 16 ing “a registered public accounting firm”.

17 **SEC. 206. CONFLICTS OF INTEREST.**

18 Section 10A of the Securities Exchange Act of 1934  
 19 (15 U.S.C. 78j–1), as amended by this Act, is amended  
 20 by adding at the end the following:

21 “(l) CONFLICTS OF INTEREST.—It shall be unlawful  
 22 for a registered public accounting firm to perform for an  
 23 issuer any audit service required by this title, if a chief  
 24 executive officer, controller, chief financial officer, chief  
 25 accounting officer or any person serving in an equivalent

1 position for the issuer was employed by that registered  
 2 independent public accounting firm and participated in  
 3 any capacity in the audit of that issuer during the 1-year  
 4 period preceding the date of the initiation of the audit.”.

5 **SEC. 207. STUDY OF MANDATORY ROTATION OF REG-**  
 6 **ISTERED PUBLIC ACCOUNTING FIRMS.**

7 (a) **STUDY AND REVIEW REQUIRED.**—The Comp-  
 8 troller General of the United States shall conduct a study  
 9 and review of the potential effects of requiring the manda-  
 10 tory rotation of registered public accounting firms.

11 (b) **REPORT REQUIRED.**—Not later than 1 year after  
 12 the date of enactment of this Act, the Comptroller General  
 13 shall submit a report to the Committee on Banking, Hous-  
 14 ing, and Urban Affairs of the Senate and the Committee  
 15 on Financial Services of the House of Representatives on  
 16 the results of the study and review required by this sec-  
 17 tion.

18 (c) **DEFINITION.**—For purposes of this section, the  
 19 term “mandatory rotation” refers to the imposition of a  
 20 limit on the period of years in which a particular reg-  
 21 istered public accounting firm may be the auditor of  
 22 record for a particular issuer.

23 **SEC. 208. COMMISSION AUTHORITY.**

24 (a) **COMMISSION REGULATIONS.**—Not later than 180  
 25 days after the date of enactment of this Act, the Commis-

1 sion shall issue final regulations to carry out each of sub-  
2 sections (g) through (l) of section 10A of the Securities  
3 Exchange Act of 1934, as added by this title.

4 (b) AUDITOR INDEPENDENCE.—It shall be unlawful  
5 for any registered public accounting firm (or an associated  
6 person thereof, as applicable) to prepare or issue any audit  
7 report with respect to any issuer, if the firm or associated  
8 person engages in any activity with respect to that issuer  
9 prohibited by any of subsections (g) through (l) of section  
10 10A of the Securities Exchange Act of 1934, as added  
11 by this title, or any rule or regulation of the Commission  
12 or of the Board issued thereunder.

13 **SEC. 209. CONSIDERATIONS BY APPROPRIATE STATE REGU-**  
14 **LATORY AUTHORITIES.**

15 It is the intention of this Act that, in supervising non-  
16 registered public accounting firms and their associated  
17 persons, appropriate State regulatory authorities should  
18 make an independent determination of the proper stand-  
19 ards applicable, particularly taking into consideration the  
20 size and nature of the business of the accounting firms  
21 they supervise. The standards applied by the Board under  
22 this Act should not be presumed to be applicable for pur-  
23 poses of this section for small- and medium-sized nonreg-  
24 istered public accounting firms.

1                   **TITLE III—CORPORATE**  
2                   **RESPONSIBILITY**

3 **SEC. 301. PUBLIC COMPANY AUDIT COMMITTEES.**

4           Section 10A of the Securities Exchange Act of 1934  
5 (15 U.S.C. 78f) is amended by adding at the end the fol-  
6 lowing:

7           “(m) STANDARDS RELATING TO AUDIT COMMIT-  
8 TEES.—

9                   “(1) COMMISSION RULES.—

10                           “(A) IN GENERAL.—Effective not later  
11 than 270 days after the date of enactment of  
12 this subsection, the Commission shall, by rule,  
13 direct the national securities exchanges and na-  
14 tional securities associations to prohibit the list-  
15 ing of any security of an issuer that is not in  
16 compliance with the requirements of any por-  
17 tion of paragraphs (2) through (6).

18                           “(B) OPPORTUNITY TO CURE DEFECTS.—  
19 The rules of the Commission under subpara-  
20 graph (A) shall provide for appropriate proce-  
21 dures for an issuer to have an opportunity to  
22 cure any defects that would be the basis for a  
23 prohibition under subparagraph (A), before the  
24 imposition of such prohibition.

1           “(2) RESPONSIBILITIES RELATING TO REG-  
2           ISTERED PUBLIC ACCOUNTING FIRMS.—The audit  
3           committee of each issuer, in its capacity as a com-  
4           mittee of the board of directors, shall be directly re-  
5           sponsible for the appointment, compensation, and  
6           oversight of the work of any registered public ac-  
7           counting firm employed by that issuer (including  
8           resolution of disagreements between management  
9           and the auditor regarding financial reporting) for  
10          the purpose of preparing or issuing an audit report  
11          or related work, and each such registered public ac-  
12          counting firm shall report directly to the audit com-  
13          mittee.

14           “(3) INDEPENDENCE.—

15           “(A) IN GENERAL.—Each member of the  
16           audit committee of the issuer shall be a member  
17           of the board of directors of the issuer, and shall  
18           otherwise be independent.

19           “(B) CRITERIA.—In order to be considered  
20           to be independent for purposes of this para-  
21           graph, a member of an audit committee of an  
22           issuer may not, other than in his or her capac-  
23           ity as a member of the audit committee, the  
24           board of directors, or any other board  
25           committee—

1                   “(i) accept any consulting, advisory,  
2                   or other compensatory fee from the issuer;  
3                   or

4                   “(ii) be an affiliated person of the  
5                   issuer or any subsidiary thereof.

6                   “(C) EXEMPTION AUTHORITY.—The Com-  
7                   mission may exempt from the requirements of  
8                   subparagraph (B) a particular relationship with  
9                   respect to audit committee members, as the  
10                  Commission determines appropriate in light of  
11                  the circumstances.

12                 “(4) COMPLAINTS.—Each audit committee shall  
13                 establish procedures for—

14                         “(A) the receipt, retention, and treatment  
15                         of complaints received by the issuer regarding  
16                         accounting, internal accounting controls, or au-  
17                         diting matters; and

18                         “(B) the confidential, anonymous submis-  
19                         sion by employees of the issuer of concerns re-  
20                         garding questionable accounting or auditing  
21                         matters.

22                 “(5) AUTHORITY TO ENGAGE ADVISERS.—Each  
23                 audit committee shall have the authority to engage  
24                 independent counsel and other advisers, as it deter-  
25                 mines necessary to carry out its duties.

1           “(6) FUNDING.—Each issuer shall provide for  
2           appropriate funding, as determined by the audit  
3           committee, in its capacity as a committee of the  
4           board of directors, for payment of compensation—

5                   “(A) to the registered public accounting  
6                   firm employed by the issuer for the purpose of  
7                   rendering or issuing an audit report; and

8                   “(B) to any advisers employed by the audit  
9                   committee under paragraph (5).”.

10 **SEC. 302. CORPORATE RESPONSIBILITY FOR FINANCIAL**  
11 **REPORTS.**

12           (a) CERTIFICATION OF PERIODIC REPORTS.—Each  
13           periodic report containing financial statements filed by an  
14           issuer with the Commission pursuant to section 13(a) or  
15           15(d) of the Securities Exchange Act of 1934, shall be  
16           accompanied by a written statement by the chief executive  
17           officer and chief financial officer (or the equivalent there-  
18           of) of the issuer.

19           (b) CONTENT.—The statement required by sub-  
20           section (a) shall certify the appropriateness of the finan-  
21           cial statements and disclosures contained in the periodic  
22           report, and that those financial statements and disclosures  
23           fairly present, in all material respects, the operations and  
24           financial condition of the issuer.

1 **SEC. 303. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.**

2 (a) RULES TO PROHIBIT.—It shall be unlawful, in  
3 contravention of such rules or regulations as the Commis-  
4 sion shall prescribe as necessary and appropriate in the  
5 public interest or for the protection of investors, for any  
6 officer or director of an issuer, or any other person acting  
7 under the direction thereof, to take any action to fraudu-  
8 lently influence, coerce, manipulate, or mislead any inde-  
9 pendent public or certified accountant engaged in the per-  
10 formance of an audit of the financial statements of that  
11 issuer for the purpose of rendering such financial state-  
12 ments materially misleading.

13 (b) ENFORCEMENT.—In any civil proceeding, the  
14 Commission shall have exclusive authority to enforce this  
15 section and any rule or regulation issued under this sec-  
16 tion.

17 (c) NO PREEMPTION OF OTHER LAW.—The provi-  
18 sions of subsection (a) shall be in addition to, and shall  
19 not supersede or preempt, any other provision of law or  
20 any rule or regulation issued thereunder.

21 (d) DEADLINE FOR RULEMAKING.—The Commission  
22 shall—

23 (1) propose the rules or regulations required by  
24 this section, not later than 90 days after the date of  
25 enactment of this Act; and

1           (2) issue final rules or regulations required by  
2           this section, not later than 270 days after that date  
3           of enactment.

4 **SEC. 304. FORFEITURE OF CERTAIN BONUSES AND PROF-**  
5 **ITS.**

6           (a) **ADDITIONAL COMPENSATION PRIOR TO NON-**  
7 **COMPLIANCE WITH COMMISSION FINANCIAL REPORTING**  
8 **REQUIREMENTS.**—If an issuer is required to prepare an  
9 accounting restatement due to the material noncompliance  
10 of the issuer, as a result of misconduct, with any financial  
11 reporting requirement under the securities laws, the chief  
12 executive officer and chief financial officer of the issuer  
13 shall reimburse the issuer for—

14           (1) any bonus or other incentive-based or eq-  
15 uity-based compensation received by that person  
16 from the issuer during the 12-month period fol-  
17 lowing the first public issuance or filing with the  
18 Commission (whichever first occurs) of the financial  
19 document embodying such financial reporting re-  
20 quirement; and

21           (2) any profits realized from the sale of securi-  
22 ties of the issuer during that 12-month period.

23           (b) **COMMISSION EXEMPTION AUTHORITY.**—The  
24 Commission may exempt any person from the application  
25 of subsection (a), as it deems necessary and appropriate.

1 **SEC. 305. OFFICER AND DIRECTOR BARS AND PENALTIES.**

2 (a) UNFITNESS STANDARD.—

3 (1) SECURITIES EXCHANGE ACT OF 1934.—Sec-  
4 tion 21(d)(2) of the Securities Exchange Act of  
5 1934 (15 U.S.C. 78u(d)(2)) is amended by striking  
6 “substantial unfitness” and inserting “unfitness”.

7 (2) SECURITIES ACT OF 1933.—Section 20(e) of  
8 the Securities Act of 1933 (15 U.S.C. 77t(e)) is  
9 amended by striking “substantial unfitness” and in-  
10 sert “unfitness”.

11 (b) EQUITABLE RELIEF.—Section 21(d) of the Secu-  
12 rities Exchange Act of 1934 (15 U.S.C. 78u(d)) is  
13 amended—

14 (1) by redesignating paragraphs (2) through  
15 (4) as paragraphs (3) through (5), respectively; and

16 (2) by inserting after paragraph (1) the fol-  
17 lowing:

18 “(2) EQUITABLE RELIEF.—In any action or pro-  
19 ceeding brought or instituted by the Commission under  
20 any provision of the securities laws, the Commission may  
21 seek, and any Federal court may grant, any equitable re-  
22 lief that may be appropriate or necessary for the benefit  
23 of investors.”.

1 **SEC. 306. INSIDER TRADES DURING PENSION FUND BLACK-**  
2 **OUT PERIODS PROHIBITED.**

3 (a) PROHIBITION.—It shall be unlawful for any direc-  
4 tor or executive officer of an issuer of any equity security  
5 (other than an exempted security), directly or indirectly,  
6 to purchase, sell, or otherwise acquire or transfer any eq-  
7 uity security of the issuer (other than an exempted secu-  
8 rity), during any blackout period with respect to such eq-  
9 uity security, in accordance with any exception provided  
10 by rule of the Commission pursuant to subsection (d).

11 (b) EFFECTIVENESS.—

12 (1) NOTICE REQUIREMENTS.—Except as pro-  
13 vided in paragraph (2), no blackout period may take  
14 effect earlier than 30 days after the date on which  
15 written notice of such blackout period is provided by  
16 the plan administrator to the participants or bene-  
17 ficiaries.

18 (2) EXCEPTION.—The 30-day notice require-  
19 ment in paragraph (1) shall not apply, and notice  
20 under paragraph (1) shall be furnished as soon as  
21 is reasonably possible, in any case in which—

22 (A) a deferral of the blackout period would  
23 violate the requirements of subparagraph (A) or  
24 (B) of section 404(a)(1) of the Employment Re-  
25 tirement Income Security Act of 1974, and a fi-

1           duciary of the plan so reasonably determines in  
2           writing; or

3                   (B) the inability to provide the 30-day no-  
4           tice is due to events that were unforeseeable, or  
5           circumstances beyond the reasonable control of  
6           the plan administrator, and a fiduciary of the  
7           plan so reasonably determines in writing.

8           (3) WRITTEN NOTICE.—The notice required to  
9           be provided under paragraph (1) shall be in writing,  
10          except that such notice may be in electronic form to  
11          the extent that such form is reasonably accessible to  
12          the recipient.

13          (c) REMEDY.—

14                   (1) IN GENERAL.—Any profit realized by a di-  
15          rector or executive officer referred to in subsection  
16          (a) from any purchase, sale, or other acquisition or  
17          transfer in violation of this section shall inure to and  
18          be recoverable by the issuer, irrespective of any in-  
19          tention on the part of such director or executive offi-  
20          cer in entering into the transaction.

21                   (2) ACTIONS TO RECOVER PROFITS.—An action  
22          to recover profits in accordance with this section  
23          may be instituted at law or in equity in any court  
24          of competent jurisdiction by the issuer, or by the  
25          owner of any security of the issuer in the name and

1 in behalf of the issuer if the issuer fails or refuses  
2 to bring such action within 60 days after the date  
3 of request, or fails diligently to prosecute the action  
4 thereafter, except that no such suit shall be brought  
5 more than 2 years after the date on which such  
6 profit was realized.

7 (d) RULEMAKING AUTHORIZED.—The Commission  
8 may issue rules to clarify the application of this sub-  
9 section, to ensure adequate notice to all persons affected  
10 by this subsection, and to prevent evasion thereof.

11 (e) DEFINITIONS.—For purposes of this section—

12 (1) the term “blackout period”, with respect to  
13 the equity securities of any issuer—

14 (A) means any period during which the  
15 ability of not fewer than 50 percent of the par-  
16 ticipants or beneficiaries under all applicable in-  
17 dividual account plans maintained by the issuer  
18 to purchase, sell, or otherwise acquire or trans-  
19 fer an interest in any equity of such issuer held  
20 in such an individual account plan, is suspended  
21 by the issuer or a fiduciary of the plan; and

22 (B) does not include—

23 (i) a period in which the employees of  
24 an issuer may not allocate their interests

1 in the individual account plan due to an  
2 express investment restriction—

3 (I) incorporated into the indi-  
4 vidual account plan; and

5 (II) timely disclosed to employees  
6 before joining the individual account  
7 plan or as a subsequent amendment  
8 to the plan; or

9 (ii) any suspension described in sub-  
10 paragraph (A) that is imposed solely in  
11 connection with persons becoming partici-  
12 pants or beneficiaries, or ceasing to be par-  
13 ticipants or beneficiaries, in an applicable  
14 individual account plan by reason of a cor-  
15 porate merger, acquisition, divestiture, or  
16 similar transaction; and

17 (2) the term “individual account plan” has the  
18 same meaning as in section 3(34) of the Employee  
19 Retirement Income Security Act of 1974 (29 U.S.C.  
20 1002(34)).

1                   **TITLE IV—ENHANCED**  
2                   **FINANCIAL DISCLOSURES**

3 **SEC. 401. DISCLOSURES IN PERIODIC REPORTS.**

4           (a) **DISCLOSURES REQUIRED.**—Section 13 of the Se-  
5 curities Exchange Act of 1934 (15 U.S.C. 78m) is amend-  
6 ed by adding at the end the following:

7           “(i) **ACCURACY OF FINANCIAL REPORTS.**—Each fi-  
8 nancial report that is required to be prepared in accord-  
9 ance with generally accepted accounting principles under  
10 this title and filed with the Commission shall reflect all  
11 material correcting adjustments that have been identified  
12 by a registered public accounting firm in accordance with  
13 generally accepted accounting principles and the rules and  
14 regulations of the Commission.

15           “(j) **OFF-BALANCE SHEET TRANSACTIONS.**—Not  
16 later than 180 days after the date of enactment of the  
17 Public Company Accounting Reform and Investor Protec-  
18 tion Act of 2002, the Commission shall issue final rules  
19 providing that each annual and quarterly financial report  
20 required to be filed with the Commission shall disclose all  
21 material off-balance sheet transactions, arrangements, ob-  
22 ligations (including contingent obligations), and other re-  
23 lationships of the issuer with unconsolidated entities or  
24 other persons, that may have a material current or future  
25 effect on financial condition, changes in financial condi-

1 tion, results of operations, liquidity, capital expenditures,  
 2 capital resources, or significant components of revenues  
 3 or expenses.”.

4 (b) COMMISSION RULES ON PRO FORMA FIGURES.—  
 5 Not later than 180 days after the date of enactment of  
 6 this Act, the Commission shall issue final rules providing  
 7 that pro forma financial information included in any peri-  
 8 odic or other report filed with the Commission pursuant  
 9 to the securities laws, or in any public disclosure or press  
 10 or other release, shall be presented in a manner that—

11 (1) does not contain an untrue statement of a  
 12 material fact or omit to state a material fact nec-  
 13 essary in order to make the pro forma financial in-  
 14 formation, in light of the circumstances under which  
 15 it is presented, not misleading; and

16 (2) reconciles it with the financial condition and  
 17 results of operations of the issuer under generally  
 18 accepted accounting principles.

19 **SEC. 402. ENHANCED CONFLICT OF INTEREST DISCLO-**  
 20 **SURES.**

21 Section 13 of the Securities Exchange Act of 1934  
 22 (15 U.S.C. 78m), as amended by this Act, is amended by  
 23 adding at the end the following:

24 “(k) ENHANCED DISCLOSURES OF LOANS.—

1           “(1) IN GENERAL.—The Commission shall, by  
2 rule, require each issuer of any securities registered  
3 pursuant to section 12 to disclose to the Commis-  
4 sion, in writing—

5           “(A) other than as provided in paragraph  
6 (2), each loan by that issuer, or an affiliate  
7 thereof, to a director or executive officer of that  
8 issuer, or a loan guarantee or similar arrange-  
9 ment from that issuer in favor of another per-  
10 son who lends, or agrees to lend, money to the  
11 director or executive officer of the issuer, in-  
12 cluding the amounts loaned and balances owed,  
13 not later than 7 calendar days after the date on  
14 which the loan, guarantee, or other arrange-  
15 ment is made, or such other time period, as de-  
16 termined appropriate by the Commission;

17           “(B) together with each report or other  
18 document required to be filed under this section  
19 in the case of each loan, guarantee, or similar  
20 arrangement described in subparagraph (A),  
21 whether—

22           “(i) the obligation has been forgiven;

23           “(ii) the issuer or its affiliate makes  
24 payment on the obligation; and

1                   “(iii) any collateral is foreclosed upon  
2                   with respect to the obligation; and

3                   “(C) any conflict of interest, as defined by  
4                   the Commission, on the part of any partner, of-  
5                   ficer, director, or other management official or  
6                   affiliated person of the issuer.

7                   “(2) EXCEPTIONS.—Paragraph (1)(A) does not  
8                   require disclosure by an issuer of any extension of  
9                   credit under an open end credit plan (as defined in  
10                  section 103 of the Truth in Lending Act (15 U.S.C.  
11                  1602)) that is—

12                  “(A) made in the ordinary course of the  
13                  consumer credit business of an issuer;

14                  “(B) of a type that is generally made avail-  
15                  able by the issuer to the public; and

16                  “(C) made on market terms, or terms that  
17                  are no more favorable than those offered by the  
18                  issuer to the general public for such loans.

19                  “(3) FORM OF DISCLOSURES.—Disclosures re-  
20                  quired by this subsection shall be in such form and  
21                  subject to such terms and conditions as the Commis-  
22                  sion shall specify.”.

1 **SEC. 403. DISCLOSURES OF TRANSACTIONS INVOLVING**  
2 **MANAGEMENT AND PRINCIPAL STOCK-**  
3 **HOLDERS.**

4 Section 16(a) of the Securities Exchange Act of 1934  
5 (15 U.S.C. 78p(a)) is amended—

6 (1) by striking “security, shall file,” and insert-  
7 ing the following:

8 “(1) shall file”; and

9 (2) by striking “beneficial owner, and” and all  
10 that follows through the end of the subsection and  
11 inserting the following: “beneficial owner; and

12 “(2) if there has been a change in such owner-  
13 ship, or if such person shall have purchased or sold  
14 a security-based swap agreement (as defined in sec-  
15 tion 206B of the Gramm-Leach-Bliley Act) involving  
16 such equity security, shall file with the Commission  
17 (and if such security is registered on a national se-  
18 curities exchange, shall also file with the exchange),  
19 a statement before the end of the second business  
20 day following the day on which the subject trans-  
21 action has been executed, or at such other time as  
22 the Commission shall establish, by rule, in any case  
23 in which the Commission determines that such 2-day  
24 period is not feasible, indicating ownership by that  
25 person at the date of filing, any such changes in  
26 such ownership, and such purchases and sales of the

1 security-based swap agreements as have occurred  
2 since the most recent such filing under this para-  
3 graph.”.

4 **SEC. 404. MANAGEMENT ASSESSMENT OF INTERNAL CON-**  
5 **TROLS.**

6 (a) **RULES REQUIRED.**—The Commission shall pre-  
7 scribe rules requiring each annual report required by sec-  
8 tion 13 of the Securities Exchange Act of 1934 (15 U.S.C.  
9 78m) to contain an internal control report, which shall—

10 (1) state the responsibility of management for  
11 establishing and maintaining an adequate internal  
12 control structure and procedures for financial re-  
13 porting; and

14 (2) contain an assessment, as of the end of the  
15 most recent fiscal year of the issuer, of the effective-  
16 ness of the internal control structure and procedures  
17 of the issuer for financial reporting.

18 (b) **INTERNAL CONTROL EVALUATION AND REPORT-**  
19 **ING.**—With respect to the internal control assessment re-  
20 quired by subsection (a), each registered public accounting  
21 firm that prepares or issues the audit report for the issuer  
22 shall attest to, and report on, the assessment made by the  
23 management of the issuer. An attestation made under this  
24 subsection shall be made in accordance with standards for  
25 attestation engagements issued or adopted by the Board.

1 Any such attestation shall not be the subject of a separate  
2 engagement.

3 **SEC. 405. EXEMPTION.**

4 Nothing in section 401, 402, or 404, the amendments  
5 made by those sections, or the rules of the Commission  
6 under those sections shall apply to any investment com-  
7 pany registered under section 8 of the Investment Com-  
8 pany Act of 1940 (15 U.S.C. 80a–8).

9 **SEC. 406. CODE OF ETHICS FOR SENIOR FINANCIAL OFFI-  
10 CERS.**

11 (a) **CODE OF ETHICS DISCLOSURE.**—The Commis-  
12 sion shall issue rules to require each issuer, together with  
13 periodic reports required pursuant to sections 13(a) and  
14 15(d) of the Securities Exchange Act of 1934, to disclose  
15 whether or not, and if not, the reason therefor, such issuer  
16 has adopted a code of ethics for senior financial officers,  
17 applicable to its principal financial officer, comptroller or  
18 principal accounting officer, or persons performing similar  
19 functions.

20 (b) **CHANGES IN CODES OF ETHICS.**—The Commis-  
21 sion shall revise its regulations concerning matters requir-  
22 ing prompt disclosure on Form 8–K (or any successor  
23 thereto) to require the immediate disclosure, by means of  
24 the filing of such form, dissemination by the Internet or

1 by other electronic means, by any issuer of any change  
2 in or waiver of the code of ethics of the issuer.

3 (c) DEFINITION.—In this section, the term “code of  
4 ethics” means such standards as are reasonably necessary  
5 to promote—

6 (1) honest and ethical conduct, including the  
7 ethical handling of actual or apparent conflicts of in-  
8 terest between personal and professional relation-  
9 ships;

10 (2) full, fair, accurate, timely, and understand-  
11 able disclosure in the periodic reports required to be  
12 filed by the issuer; and

13 (3) compliance with applicable governmental  
14 rules and regulations.

15 (d) DEADLINE FOR RULEMAKING.—The Commission  
16 shall—

17 (1) propose rules to implement this section, not  
18 later than 90 days after the date of enactment of  
19 this Act; and

20 (2) issue final rules to implement this section,  
21 not later than 180 days after that date of enact-  
22 ment.

1 **SEC. 407. DISCLOSURE OF AUDIT COMMITTEE FINANCIAL**  
2 **EXPERT.**

3 (a) RULES DEFINING “FINANCIAL EXPERT”.—The  
4 Commission shall issue rules, as necessary or appropriate  
5 in the public interest and consistent with the protection  
6 of investors, to require each issuer, together with periodic  
7 reports required pursuant to sections 13(a) and 15(d) of  
8 the Securities Exchange Act of 1934, to disclose whether  
9 or not, and if not, the reasons therefor, the audit com-  
10 mittee of that issuer is comprised of at least 1 member  
11 who is a financial expert, as such term is defined by the  
12 Commission.

13 (b) CONSIDERATIONS.—In defining the term “finan-  
14 cial expert” for purposes of subsection (a), the Commis-  
15 sion shall consider whether a person has, through edu-  
16 cation and experience as a public accountant or auditor  
17 or a principal financial officer, comptroller, or principal  
18 accounting officer of an issuer, or from a position involv-  
19 ing the performance of similar functions—

20 (1) an understanding of generally accepted ac-  
21 counting principles and financial statements;

22 (2) experience in—

23 (A) the preparation or auditing of financial  
24 statements of generally comparable issuers; and

1 (B) the application of such principles in  
 2 connection with the accounting for estimates,  
 3 accruals, and reserves;

4 (3) experience with internal accounting controls;  
 5 and

6 (4) an understanding of audit committee func-  
 7 tions.

8 (c) DEADLINE FOR RULEMAKING.—The Commission  
 9 shall—

10 (1) propose rules to implement this section, not  
 11 later than 90 days after the date of enactment of  
 12 this Act; and

13 (2) issue final rules to implement this section,  
 14 not later than 180 days after that date of enact-  
 15 ment.

## 16 **TITLE V—ANALYST CONFLICTS** 17 **OF INTEREST**

### 18 **SEC. 501. TREATMENT OF SECURITIES ANALYSTS BY REG-** 19 **ISTERED SECURITIES ASSOCIATIONS.**

20 (a) RULES REGARDING SECURITIES ANALYSTS.—  
 21 Section 15A of the Securities Exchange Act of 1934 (15  
 22 U.S.C. 78o–3) is amended by adding at the end the fol-  
 23 lowing:

24 “(n) RULES REGARDING SECURITIES ANALYSTS.—

1           “(1) ANALYST PROTECTIONS.—The Commis-  
2           sion, or upon the authorization and direction of the  
3           Commission, a registered securities association or  
4           national securities exchange, shall have adopted, not  
5           later than 1 year after the date of enactment of this  
6           subsection, rules reasonably designed to address con-  
7           flicts of interest that can arise when research ana-  
8           lysts recommend equity securities in research reports  
9           and public appearances, in order to improve the ob-  
10          jectivity of research and provide investors with more  
11          useful and reliable information, including rules  
12          designed—

13                 “(A) to foster greater public confidence in  
14                 securities research, and to protect the objec-  
15                 tivity and independence of securities analysts,  
16                 by—

17                         “(i) restricting the prepublication  
18                         clearance or approval of research reports  
19                         by persons employed by the broker or deal-  
20                         er who are engaged in investment banking  
21                         activities, or persons not directly respon-  
22                         sible for investment research, other than  
23                         legal or compliance staff;

24                         “(ii) limiting the supervision and com-  
25                         pensatory evaluation of securities analysts

1 to officials employed by the broker or deal-  
2 er who are not engaged in investment  
3 banking activities; and

4 “(iii) requiring that a broker or dealer  
5 and persons employed by a broker or deal-  
6 er who are involved with investment bank-  
7 ing activities may not, directly or indi-  
8 rectly, retaliate against or threaten to re-  
9 taliate against any securities analyst em-  
10 ployed by that broker or dealer or its affili-  
11 ates as a result of an adverse, negative, or  
12 otherwise unfavorable research report that  
13 may adversely affect the present or pro-  
14 spective investment banking relationship of  
15 the broker or dealer with the issuer that is  
16 the subject of the research report, except  
17 that such rules may not limit the authority  
18 of a broker or dealer to discipline a securi-  
19 ties analyst for causes other than such re-  
20 search report in accordance with the poli-  
21 cies and procedures of the firm;

22 “(B) to define periods during which bro-  
23 kers or dealers who have participated, or are to  
24 participate, in a public offering of securities as  
25 underwriters or dealers should not publish or

1 otherwise distribute research reports relating to  
2 such securities or to the issuer of such securi-  
3 ties;

4 “(C) to establish structural and institu-  
5 tional safeguards within registered brokers or  
6 dealers to assure that securities analysts are  
7 separated by appropriate informational parti-  
8 tions within the firm from the review, pressure,  
9 or oversight of those whose involvement in in-  
10 vestment banking activities might potentially  
11 bias their judgment or supervision; and

12 “(D) to address such other issues as the  
13 Commission, or such association or exchange,  
14 determines appropriate.

15 “(2) DISCLOSURE.—The Commission, or upon  
16 the authorization and direction of the Commission,  
17 a registered securities association or national securi-  
18 ties exchange, shall have adopted, not later than 1  
19 year after the date of enactment of this subsection,  
20 rules reasonably designed to require each securities  
21 analyst to disclose in public appearances, and each  
22 registered broker or dealer to disclose in each re-  
23 search report, as applicable, conflicts of interest that  
24 are known or should have been known by the securi-  
25 ties analyst or the broker or dealer, to exist at the

1 time of the appearance or the date of distribution of  
2 the report, including—

3 “(A) the extent to which the securities an-  
4 alyst has debt or equity investments in the  
5 issuer that is the subject of the appearance or  
6 research report;

7 “(B) whether any compensation has been  
8 received by the registered broker or dealer, or  
9 any affiliate thereof, including the securities an-  
10 alyst, from the issuer that is the subject of the  
11 appearance or research report, subject to such  
12 exemptions as the Commission may determine  
13 appropriate and necessary to prevent disclosure  
14 by virtue of this subparagraph of material non-  
15 public information regarding specific potential  
16 future investment banking transactions of such  
17 issuer, as is appropriate in the public interest  
18 and consistent with the protection of investors;

19 “(C) whether an issuer, the securities of  
20 which are recommended in the appearance or  
21 research report, currently is, or during the 1-  
22 year period preceding the date of the appear-  
23 ance or date of distribution of the report has  
24 been, a client of the registered broker or dealer,

1 and if so, stating the types of services provided  
2 to the issuer;

3 “(D) whether the securities analyst re-  
4 ceived compensation with respect to a research  
5 report, based upon (among any other factors)  
6 the investment banking revenues (either gen-  
7 erally or specifically earned from the issuer  
8 being analyzed) of the registered broker or deal-  
9 er; and

10 “(E) such other disclosures of conflicts of  
11 interest that are material to investors, research  
12 analysts, or the broker or dealer as the Com-  
13 mission, or such association or exchange, deter-  
14 mines appropriate.

15 “(3) DEFINITIONS.—In this subsection—

16 “(A) the term ‘securities analyst’ means  
17 any associated person of a registered broker or  
18 dealer that is principally responsible for, and  
19 any associated person who reports directly or  
20 indirectly to a securities analyst in connection  
21 with, the preparation of the substance of a re-  
22 search report, whether or not any such person  
23 has the job title of ‘securities analyst’; and

24 “(B) the term ‘research report’ means a  
25 written or electronic communication that in-

1           cludes an analysis of equity securities of indi-  
 2           vidual companies or industries, and that pro-  
 3           vides information reasonably sufficient upon  
 4           which to base an investment decision.”.

5           (b) ENFORCEMENT.—Section 21B(a) of the Securi-  
 6 ties Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is  
 7 amended by inserting “15A(n),” before “15B”.

8           (c) COMMISSION AUTHORITY.—The Commission may  
 9 promulgate and amend its regulations, or direct a reg-  
 10 istered securities association or national securities ex-  
 11 change to promulgate and amend its rules, to carry out  
 12 section 15A(n) of the Securities Exchange Act of 1934,  
 13 as added by this section, as is necessary for the protection  
 14 of investors and in the public interest.

## 15           **TITLE VI—COMMISSION**

## 16           **RESOURCES AND AUTHORITY**

### 17           **SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

18           Section 35 of the Securities Exchange Act of 1934  
 19 (15 U.S.C. 78kk) is amended to read as follows:

### 20           **“SEC. 35. AUTHORIZATION OF APPROPRIATIONS.**

21           “In addition to any other funds authorized to be ap-  
 22 propriated to the Commission, there are authorized to be  
 23 appropriated to carry out the functions, powers, and du-  
 24 ties of the Commission, \$776,000,000 for fiscal year 2003,  
 25 of which—

1           “(1) \$102,700,000 shall be available to fund  
2 additional compensation, including salaries and ben-  
3 efits, as authorized in the Investor and Capital Mar-  
4 kets Fee Relief Act (Public Law 107–123; 115 Stat.  
5 2390 et seq.);

6           “(2) \$108,400,000 shall be available for infor-  
7 mation technology, security enhancements, and re-  
8 covery and mitigation activities in light of the ter-  
9 rorist attacks of September 11, 2001; and

10           “(3) \$98,000,000 shall be available to add not  
11 fewer than an additional 200 qualified professionals  
12 to provide enhanced oversight of auditors and audit  
13 services required by the Federal securities laws, and  
14 to improve Commission investigative and disciplinary  
15 efforts with respect to such auditors and services, as  
16 well as for additional professional support staff nec-  
17 essary to strengthen the programs of the Commis-  
18 sion involving Full Disclosure and Prevention and  
19 Suppression of Fraud, risk management, industry  
20 technology review, compliance, inspections, examina-  
21 tions, market regulation, and investment manage-  
22 ment.”.

1 **SEC. 602. APPEARANCE AND PRACTICE BEFORE THE COM-**  
2 **MISSION.**

3 The Securities Exchange Act of 1934 (15 U.S.C. 78a  
4 et seq.) is amended by inserting after section 4B the fol-  
5 lowing:

6 **“SEC. 4C. APPEARANCE AND PRACTICE BEFORE THE COM-**  
7 **MISSION.**

8 “(a) **AUTHORITY TO CENSURE.**—The Commission  
9 may censure any person, or deny, temporarily or perma-  
10 nently, to any person the privilege of appearing or prac-  
11 ticing before the Commission in any way, if that person  
12 is found by the Commission, after notice and opportunity  
13 for hearing in the matter—

14 “(1) not to possess the requisite qualifications  
15 to represent others;

16 “(2) to be lacking in character or integrity, or  
17 to have engaged in unethical or improper profes-  
18 sional conduct; or

19 “(3) to have willfully violated, or willfully aided  
20 and abetted the violation of, any provision of the se-  
21 curities laws or the rules and regulations issued  
22 thereunder.

23 “(b) **DEFINITION.**—With respect to any registered  
24 public accounting firm, for purposes of this section, the  
25 term ‘improper professional conduct’ means—

1           “(1) intentional or knowing conduct, including  
2 reckless conduct, that results in a violation of appli-  
3 cable professional standards; and

4           “(2) negligent conduct in the form of—

5                   “(A) a single instance of highly unreason-  
6 able conduct that results in a violation of appli-  
7 cable professional standards in circumstances in  
8 which the registered public accounting firm  
9 knows, or should know, that heightened scru-  
10 tiny is warranted; or

11                   “(B) repeated instances of unreasonable  
12 conduct, each resulting in a violation of applica-  
13 ble professional standards, that indicate a lack  
14 of competence to practice before the Commis-  
15 sion.”.

16 **SEC. 603. FEDERAL COURT AUTHORITY TO IMPOSE PENNY**  
17 **STOCK BARS.**

18           (a) SECURITIES EXCHANGE ACT OF 1934.—Section  
19 21(d) of the Securities Exchange Act of 1934 (15 U.S.C.  
20 78u(d)), as amended by this Act, is amended by adding  
21 at the end the following:

22           “(7) AUTHORITY OF A COURT TO PROHIBIT PERSONS  
23 FROM PARTICIPATING IN AN OFFERING OF PENNY  
24 STOCK.—

1           “(A) IN GENERAL.—In any proceeding under  
2 paragraph (1) against any person participating in,  
3 or, at the time of the alleged misconduct who was  
4 participating in, an offering of penny stock, the  
5 court may prohibit that person from participating in  
6 an offering of penny stock, conditionally or uncondi-  
7 tionally, and permanently or for such period of time  
8 as the court shall determine.

9           “(B) DEFINITION.—For purposes of this para-  
10 graph, the term ‘person participating in an offering  
11 of penny stock’ includes any person engaging in ac-  
12 tivities with a broker, dealer, or issuer for purposes  
13 of issuing, trading, or inducing or attempting to in-  
14 duce the purchase or sale of, any penny stock. The  
15 Commission may, by rule or regulation, define such  
16 term to include other activities, and may, by rule,  
17 regulation, or order, exempt any person or class of  
18 persons, in whole or in part, conditionally or uncon-  
19 ditionally, from inclusion in such term.

20           (b) SECURITIES ACT OF 1933.—Section 20 of the Se-  
21 curities Act of 1933 (15 U.S.C. 77t) is amended by adding  
22 at the end the following:

23           “(g) AUTHORITY OF A COURT TO PROHIBIT PER-  
24 SONS FROM PARTICIPATING IN AN OFFERING OF PENNY  
25 STOCK.—

1           “(1) IN GENERAL.—In any proceeding under  
2 subsection (a) against any person participating in,  
3 or, at the time of the alleged misconduct, who was  
4 participating in, an offering of penny stock, the  
5 court may prohibit that person from participating in  
6 an offering of penny stock, conditionally or uncondi-  
7 tionally, and permanently or for such period of time  
8 as the court shall determine.

9           “(2) DEFINITION.—For purposes of this sub-  
10 section, the term ‘person participating in an offering  
11 of penny stock’ includes any person engaging in ac-  
12 tivities with a broker, dealer, or issuer for purposes  
13 of issuing, trading, or inducing or attempting to in-  
14 duce the purchase or sale of, any penny stock. The  
15 Commission may, by rule or regulation, define such  
16 term to include other activities, and may, by rule,  
17 regulation, or order, exempt any person or class of  
18 persons, in whole or in part, conditionally or uncon-  
19 ditionally, from inclusion in such term.”.

20 **SEC. 604. QUALIFICATIONS OF ASSOCIATED PERSONS OF**  
21 **BROKERS AND DEALERS.**

22           (a) BROKERS AND DEALERS.—Section 15(b)(4) of  
23 the Securities Exchange Act of 1934 (15 U.S.C. 78o) is  
24 amended—

1           (1) by striking subparagraph (F) and inserting  
2 the following:

3           “(F) is subject to any order of the Commission  
4 barring or suspending the right of the person to be  
5 associated with a broker or dealer;” and

6           (2) in subparagraph (G), by striking the period  
7 at the end and inserting the following: “; or

8           “(H) is subject to any final order of a State se-  
9 curities commission (or any agency or officer per-  
10 forming like functions), State authority that super-  
11 vises or examines banks, savings associations, or  
12 credit unions, State insurance commission (or any  
13 agency or office performing like functions), an ap-  
14 propriate Federal banking agency (as defined in sec-  
15 tion 3 of the Federal Deposit Insurance Act (12  
16 U.S.C. 1813(q))), or the National Credit Union Ad-  
17 ministration, that—

18           “(i) bars such person from association with  
19 an entity regulated by such commission, author-  
20 ity, agency, or officer, or from engaging in the  
21 business of securities, insurance, banking, sav-  
22 ings association activities, or credit union activi-  
23 ties; or

24           “(ii) constitutes a final order based on vio-  
25 lations of any laws or regulations that prohibit

1           fraudulent, manipulative, or deceptive con-  
2           duct.”.

3           (b) INVESTMENT ADVISERS.—Section 203(e) of the  
4 Investment Advisers Act of 1940 (15 U.S.C. 80b–3(e)) is  
5 amended by striking paragraphs (7) and (8) and inserting  
6 the following:

7           “(7) is subject to any order of the Commission  
8           barring or suspending the right of the person to be  
9           associated with an investment adviser; or

10           “(8) is subject to any final order of a State se-  
11           curities commission (or any agency or officer per-  
12           forming like functions), State authority that super-  
13           vises or examines banks, savings associations, or  
14           credit unions, State insurance commission (or any  
15           agency or office performing like functions), an ap-  
16           propriate Federal banking agency (as defined in sec-  
17           tion 3 of the Federal Deposit Insurance Act (12  
18           U.S.C. 1813(q))), or the National Credit Union Ad-  
19           ministration, that—

20           “(A) bars such person from association  
21           with an entity regulated by such commission,  
22           authority, agency, or officer, or from engaging  
23           in the business of securities, insurance, bank-  
24           ing, savings association activities, or credit  
25           union activities; or

1           “(B) constitutes a final order based on vio-  
2           lations of any laws or regulations that prohibit  
3           fraudulent, manipulative, or deceptive con-  
4           duct.”.

5           (c) CONFORMING AMENDMENTS.—

6           (1) SECURITIES EXCHANGE ACT OF 1934.—The  
7           Securities Exchange Act of 1934 (15 U.S.C. 78a et  
8           seq.) is amended—

9           (A) in section 3(a)(39)(F) (15 U.S.C.  
10           78c(a)(39)(F)), by inserting “, or is subject to  
11           an order or finding,” before “enumerated”;

12           (B) in each of sections 15(b)(6)(A)(i) (15  
13           U.S.C. 78o(b)(6)(A)(i)), paragraphs (2) and (4)  
14           of section 15B(c) (15 U.S.C. 78o–4(c)), and  
15           subparagraphs (A) and (C) of section 15C(c)(1)  
16           (15 U.S.C. 78o–5(c)(1)) by striking “or omis-  
17           sion” each place that term appears, and insert-  
18           ing “, or is subject to an order or finding,”; and

19           (C) in each of paragraphs (3)(A) and  
20           (4)(C) of section 17A(c) (15 U.S.C. 78q–1(c)),  
21           by inserting “, or is subject to an order or find-  
22           ing,” before “enumerated” each place that term  
23           appears.

24           (2) INVESTMENT ADVISERS ACT OF 1940.—Sec-  
25           tion 203(f) of the Investment Advisers Act of 1940

1 (15 U.S.C. 80b–3(f)) is amended, by inserting “or  
2 (3)” after “paragraph (2)”.

## 3 **TITLE VII—STUDIES AND** 4 **REPORTS**

### 5 **SEC. 701. GAO STUDY AND REPORT REGARDING CONSOLI-** 6 **DATION OF PUBLIC ACCOUNTING FIRMS.**

7 (a) STUDY REQUIRED.—The Comptroller General of  
8 the United States shall conduct a study—

9 (1) to identify—

10 (A) the factors that have led to the consoli-  
11 dation of public accounting firms since 1989  
12 and the consequent reduction in the number of  
13 firms capable of providing audit services to  
14 large national and multi-national business orga-  
15 nizations that are subject to the securities laws;

16 (B) the present and future impact of the  
17 condition described in subparagraph (A) on  
18 capital formation and securities markets, both  
19 domestic and international; and

20 (C) solutions to any problems identified  
21 under subparagraph (B), including ways to in-  
22 crease competition and the number of firms ca-  
23 pable of providing audit services to large na-  
24 tional and multinational business organizations  
25 that are subject to the securities laws;

1           (2) of the problems, if any, faced by business  
2 organizations that have resulted from limited com-  
3 petition among public accounting firms, including—

4                   (A) higher costs;

5                   (B) lower quality of services;

6                   (C) impairment of auditor independence;

7           or

8                   (D) lack of choice; and

9           (3) whether and to what extent Federal or  
10 State regulations impede competition among public  
11 accounting firms.

12       (b) CONSULTATION.—In planning and conducting the  
13 study under this section, the Comptroller General shall  
14 consult with—

15                   (1) the Commission;

16                   (2) the regulatory agencies that perform func-  
17 tions similar to the Commission within the other  
18 member countries of the Group of Seven Industri-  
19 alized Nations;

20                   (3) the Department of Justice; and

21                   (4) any other public or private sector organiza-  
22 tion that the Comptroller General considers appro-  
23 priate.

24       (c) REPORT REQUIRED.—Not later than 1 year after  
25 the date of enactment of this Act, the Comptroller General

1 shall submit a report on the results of the study required  
2 by this section to the Committee on Banking, Housing,  
3 and Urban Affairs of the Senate and the Committee on  
4 Financial Services of the House of Representatives.

5 **SEC. 702. COMMISSION STUDY AND REPORT REGARDING**  
6 **CREDIT RATING AGENCIES.**

7 (a) STUDY REQUIRED.—

8 (1) IN GENERAL.—The Commission shall con-  
9 duct a study of the role and function of credit rating  
10 agencies in the operation of the securities market.

11 (2) AREAS OF CONSIDERATION.—The study re-  
12 quired by this subsection shall examine—

13 (A) the role of credit rating agencies in the  
14 evaluation of issuers of securities;

15 (B) the importance of that role to investors  
16 and the functioning of the securities markets;

17 (C) any impediments to the accurate ap-  
18 praisal by credit rating agencies of the financial  
19 resources and risks of issuers of securities;

20 (D) any barriers to entry into the business  
21 of acting as a credit rating agency, and any  
22 measures needed to remove such barriers;

23 (E) any measures which may be required  
24 to improve the dissemination of information

1           concerning such resources and risks when credit  
2           rating agencies announce credit ratings; and

3           (F) any conflicts of interest in the oper-  
4           ation of credit rating agencies and measures to  
5           prevent such conflicts or ameliorate the con-  
6           sequences of such conflicts.

7           (b) REPORT REQUIRED.—The Commission shall sub-  
8           mit a report on the study required by subsection (a) to  
9           the President, the Committee on Financial Services of the  
10          House of Representatives, and the Committee on Banking,  
11          Housing, and Urban Affairs of the Senate not later than  
12          180 days after the date of enactment of this Act.

**Calendar No. 442**

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2673**

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**A BILL**

To improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

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JUNE 25, 2002

Read twice and placed on the calendar