



Status of Key SEC and Sarbanes-Oxley Rulemaking As of November 28, 2003

Topic	Effective Date	Status	Summary
PCAOB Internal controls	Planned for audits of years ending December 31, 2003	Draft	<p>The Public Company Accounting Oversight Board in October released draft rules implementing Section 404 of the Sarbanes-Oxley Act. The rule requires that the auditor express an opinion on management's assessment of internal controls. Auditors will be required to evaluate the effectiveness of boards of directors audit committees. Ineffective oversight by the audit committee would be at least a significant deficiency and possibly a strong indicator of a material weakness. In some cases, auditors would be allowed to rely on internal control work performed by management or internal auditors.</p> <p>The full text of the proposal is on the PCAOB web site at http://www.pcaobus.org/pcaob_news_10-07-03b.asp.</p>
Shareholder access to proxy ballots	Not decided yet	Draft	<p>In October, the Securities and Exchange Commission proposed rules to allow shareholders to have greater access to the director nomination process when evidence suggests that a company has been unresponsive to shareholder concerns. The proposal establishes triggers and ownership and independence thresholds to provide shareholders with the mechanism to nominate directors on the corporate proxy ballot. The process would be a two-step, two-year process with triggering events occurring in year one and the election process in year two.</p> <p>Under the proposal, shareholders that own a stock for at least two years and hold at least 5 percent of the shares would be able to put candidates on the proxy ballot, after a triggering event occurred. One trigger would be if 35 percent or more of shareholders withhold votes for one or more board of directors candidates. A second trigger would be if management fails to act on a shareholder proposal that requests that the company be subject to the shareholder access procedure. The SEC also asked for comment on a third trigger, not included in the formal written proposal, that would be when management fails to act on a shareholder proposal approved on 50 percent of the ballots cast.</p> <p>Comments are due on December 22, 2003. More detail can be found on the SEC web site at http://www.sec.gov/rules/proposed/34-48626.htm.</p>

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MD&A disclosure of critical accounting estimates	Most recent year and any subsequent quarters	Draft	<p>Requires companies to disclose comprehensive and detailed information about critical accounting estimates and effects on the financial statements of changes, or potential changes, to the estimates in MD&A. The proposal also requires that companies provide disclosures upon the initial adoption of an accounting policy.</p> <p>AFP recommended only disclosures of general information about critical accounting estimates. For the full text of the proposed rule, see http://www.sec.gov/rules/proposed/33-8098.htm</p>
Additional 8-K items	60 days after issuance of final rule	Draft	<p>Companies would be required to disclose 16 events within two business days after the event occurred. 11 are new, 2 currently are reported on 10-K and Q, and 3 are amendments to current 8-K items. Form 8-Ks would be due within two business days after the event occurred. Companies would receive an automatic two business day extension upon filing Form 12b-25.</p> <p>AFP recommended filing on fifth day after the event occurred. For the full text of the proposed rule, see http://www.sec.gov/rules/proposed/33-8106.htm</p>
Sarbanes-Oxley--Section 404 Internal controls	Fiscal years ending after June 15, 2004 (for most companies)	Final	<p>Companies will be required to assess the effectiveness of financial reporting internal controls in a separate report, filed with the <u>annual</u> report on Form 10-K. The external auditor must attest to the company's assessment of internal control effectiveness. The auditor's report will also be included in the Form 10-K. In addition, management is required to disclose any "material weakness" and may not conclude that internal controls are effective if there are one or more material weaknesses.</p> <p>In a comment letter, AFP opposed the proposed requirement that companies evaluate and report quarterly on internal controls, rather than annually, as required by the Sarbanes-Oxley Act. The final rule requires annual reporting.</p> <p>The full text of the final rule, see http://www.sec.gov/rules/final/33-8238.htm</p>
Sarbanes-Oxley--Section	Pro forma information or	Final	<p>New Regulation G will require that companies reconcile pro forma, or non-GAAP, financial information to their financial statements. Also, companies that issue earnings releases will need to</p>

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401 (b) Pro forma financial information	earnings releases as of March 28, 2003		file them on Form 8-Ks. For the full text of the final rule, see http://www.sec.gov/rules/final/33-8176.htm
Sarbanes-Oxley--Section 301 Listing standards related to audit committees	For U.S. companies, by first annual shareholders meeting after January 15, 2004, but no later than October 31, 2004.	Final	Public companies that are not in compliance with boards of directors audit committee requirements will be prohibited from listing their securities on national exchanges. Public companies must comply with five rules in order to be listed: <ul style="list-style-type: none"> • Each board of director audit committee member must be independent. • Audit committee must be responsible for hiring, compensation, oversight, and firing of the external auditor. • Audit committee must establish procedures to deal with complaints regarding accounting, internal control or auditing matters. • Audit committee must have the authority to hire advisors or independent council. • Company must provide adequate funding for audit committee. For the full text of the final rule, see http://www.sec.gov/rules/final/33-8220.htm
Sarbanes-Oxley--Section 208 (a) Audit committees and auditor independence	May 6, 2003	Final	Audit committees will be required to pre-approve all audit and non-audit services provided by the auditor. Auditors also will be required to brief the audit committee on the company's accounting, including alternative approaches that might be preferable to the company's current methods. The rules also prohibit an accounting firm from auditing a company's financial statements if the company's CFO or controller (or equivalents) had been members of the auditor's audit team within the one-year period preceding the current year audit (one year "cooling off" period). For the full text of the final rule, see http://www.sec.gov/rules/final/33-8183.htm

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Sarbanes-Oxley--Section 407 Audit committee financial expert	Annual reports for fiscal years ending on or after July 15, 2003	Final	<p>Companies will be required to disclose in periodic reports whether the audit committee includes an “audit committee financial expert” as a member. A financial expert must have experience preparing, auditing, analyzing or evaluating financial statements, an understanding of accounting, experience with internal controls, and an understanding of audit committee functions.</p> <p>The SEC revised the draft rule to broaden the definition of an expert to include those with experience analyzing or preparing financial statements. AFP had recommended that the definition of financial expert on an audit committee should not be restricted only to those who have experience preparing or auditing financial statements.</p> <p>For the full text of the final rule, see http://www.sec.gov/rules/final/33-8177.htm</p>
Sarbanes-Oxley--Section 401 (a) MD&A disclosure of off-balance sheet arrangements and contingent liabilities	Annual reports for fiscal years ending on or after June 15, 2003	Final	<p>All material off-balance sheet arrangements that may have a material current or future effect on the financial statements or liquidity will be required to be included in the MD&A section. The SEC revised the disclosure threshold to “reasonably likely” from “more than remote.” The SEC also reduced the required volume and detail of the disclosures in the final rule.</p> <p>In a comment letter, AFP expressed concern about the volume, sensitivity and uncertainty of the proposed disclosures. AFP noted that the proposed rules could result in voluminous disclosures about multiple off-balance sheet arrangements that could inadvertently mask, rather than clarify, information in the financial statements.</p> <p>For the full text of the final rule, see http://www.sec.gov/rules/final/33-8182.htm</p>
Sarbanes-Oxley--Section 302 (a) Certifications of 10-K, 10-Q,	Immediate	Final	<p>CEO and CFO must certify that the financial statements in 10-Q and 10-K do not contain an untrue statement of material fact and that they do not omit a material fact necessary to ensure that the financial statements are fairly presented, based on the officers’ knowledge. They also must certify specific information about “disclosure controls” and whether they have communicated any significant internal control deficiencies to the audit committee. The rule also applies to foreign</p>

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and disclosure controls			companies trading on U.S. exchanges. For the full text of the final rule, see http://www.sec.gov/rules/final/33-8124.htm												
Acceleration of Form 10-K and 10-Q reporting	Years ending after December 15, 2003	Final	<p>Accelerated filings for Forms 10-Q and 10-K are phased in over three years:</p> <table border="0"> <thead> <tr> <th><u>Fiscal years ending</u></th> <th><u>Form 10-K</u></th> <th><u>Form 10-Q</u></th> </tr> </thead> <tbody> <tr> <td>12/15/2003</td> <td>75 days after year end</td> <td>45 days after quarter end (no change)</td> </tr> <tr> <td>12/15/2004</td> <td>60 days after year end</td> <td>40 days after quarter end</td> </tr> <tr> <td>12/15/2005</td> <td>60 days after year end</td> <td>35 days after quarter end</td> </tr> </tbody> </table> <p>Companies with public floats of less than \$75 million are exempted.</p> <p>AFP recommended 35 days for 10-Qs, 75 days for 10-Ks, and a 12-month implementation period. For the full text of the final rule, see http://www.sec.gov/rules/final/33-8128.htm</p>	<u>Fiscal years ending</u>	<u>Form 10-K</u>	<u>Form 10-Q</u>	12/15/2003	75 days after year end	45 days after quarter end (no change)	12/15/2004	60 days after year end	40 days after quarter end	12/15/2005	60 days after year end	35 days after quarter end
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Sarbanes-Oxley--Section 306 (a) Pension blackout periods	January 26, 2003	Final	<p>SEC rules prohibit directors and executives from trading public company shares during retirement plan blackout periods. They may not directly or indirectly purchase, sell, acquire, or transfer any equity security of the company acquired in connection with their service during a retirement plan blackout period.</p> <p>For the full text of the final rule, see http://www.sec.gov/rules/final/34-47225.htm</p>												
Sarbanes-Oxley--Section 403 (a) Insider transactions	Immediate	Final	<p>Insiders (directors, officers, and holders of 10 percent of any class of registered securities) must report transactions in company stock on Form 4 by the second business day after the transaction date. Previously, companies reported by the 10th day of the month following the transaction date. The rule extended the filing dates for certain transactions, where the insider does not select the transaction date.</p> <p>AFP recommended 7 calendar days after transaction occurred. For the full text of the final rule,</p>												

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			see http://www.sec.gov/rules/final/34-46421.htm
		Draft	SEC asked for comment on whether other types of transactions should have extensions.
Sarbanes-Oxley--Section 406, Code of ethics	Annual reports for fiscal years ending on or after July 15, 2003	Final	Companies will be required to disclose whether they have a code of ethics applicable to senior financial officers. If so, the code must be included in an exhibit to the annual report. Companies that change the code or waive it for a specific transaction must disclose the event by filing a Form 8-K or posting a notice on the web site. If a company does not have such a code of ethics, it must disclose the reason. For the full text of the final rule, see http://www.sec.gov/rules/final/33-8177.htm
Sarbanes-Oxley--Section 303 Misleading of external auditor	June 27, 2003	Final	This rule will prohibit officers and directors from taking any action to coerce, manipulate, mislead, or fraudulently influence the external auditor for the purpose of making the financial statements materially misleading. For the full text of the final rule, see http://www.sec.gov/rules/final/34-47890.htm

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