



G A O

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

B-291257

September 23, 2002

The Honorable Paul S. Sarbanes
Chairman
The Honorable Phil Gramm
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Michael G. Oxley
Chairman
The Honorable John J. LaFalce
Ranking Minority Member
Committee on Financial Services
House of Representatives

Subject: Securities and Exchange Commission: Certification of Disclosure in
Companies' Quarterly and Annual Reports

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (SEC), entitled "Certification of Disclosure in Companies' Quarterly and Annual Reports" (RIN: 3235-AI54). We received the rule on August 30, 2002. It was published in the Federal Register as a "final rule; request for comments" on September 9, 2002. 67 Fed. Reg. 57276.

The final rule implements section 302 of the Sarbanes-Oxley Act of 2002 (Pub. L. 107-204, July 30, 2002) requiring issuers' principal executive and financial officers to certify the financial and other information contained in issuers' quarterly, annual, and other periodic reports filed or submitted under the Exchange Act. In addition, the rule requires issuers to establish, maintain, and regularly evaluate the effectiveness of disclosure controls and procedures designed to ensure that the information required in reports under the Exchange Act is recorded, processed, and summarized and reported on a timely basis.

Enclosed is our assessment of the SEC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the SEC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Thomas McCool, Managing Director, Financial Markets and Community Investments. Mr. McCool can be reached at (202) 512-8678.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Margaret H. McFarland
Deputy Secretary
Securities and Exchange Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
"CERTIFICATION OF DISCLOSURE IN
COMPANIES' QUARTERLY AND ANNUAL REPORTS"
(RIN: 3235-AI54)

(i) Cost-benefit analysis

The SEC finds that approximately 20,000 issuers will be subject to the final rule and will spend an average of five hours per report and incur a per-report cost of about \$1,125. The aggregate direct cost will be approximately \$68.6 million.

While the benefits are difficult to quantify, the SEC believes they are significant and may render the impact of the rule on the economy to be more than \$100 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The SEC prepared an Initial and Final Regulatory Flexibility Analysis in connection with the proposed rule and the final rule, respectively. The analyses meet the informational requirements of the Act, including a description of the small entities affected, reporting and recordkeeping requirements, and alternatives considered to reduce the impact on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the SEC is not subject to title II of the Unfunded Mandates Reform Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. While the SEC published a Notice of Proposed Rulemaking on June 20, 2002, in the Federal Register (67 Fed. Reg. 41877), the contents of the proposed rule and the comments received were largely superseded by the passage of the Sarbanes-Oxley Act that mandated the form of the certification to be used by the SEC.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Review Act. The collections previously described in the proposed rule and their annual burden estimates have not changed since their approval by OMB. However, the passage of the Sarbanes-Oxley Act necessitated additional information collections, which have been submitted to OMB for emergency review. The preamble to the final rule contains the required information regarding the collections, including the estimated annual burdens.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority contained in sections 10(b), 13, 15(d), and 23(a) of the Exchange Act; sections 8, 30, and 38 of the Investment Company Act; and sections 3(a) and 302 of the Sarbanes-Oxley Act of 2002.

Executive Order No. 12866

As the rule is promulgated by an independent regulatory agency, it is not subject to the review requirements of the order.