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United States Government Accountability Office  
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January 4, 2007

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

The Honorable Michael G. Oxley  
Chairman  
The Honorable Barney Frank  
Ranking Minority Member  
Committee on Financial Services  
House of Representatives

Subject: *Securities and Exchange Commission: Internal Control Over Financial Reporting in Exchange Act Periodic Reports of Non-Accelerated Filers and Newly Public Companies*

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 (Commission), entitled “Internal Control Over Financial Reporting in Exchange Act Periodic Reports of Non-Accelerated Filers and Newly Public Companies” (RIN: 3235-AJ64). We received the rule on December 18, 2006. It was published in the Federal Register as a “final rule; extension of compliance dates; request for comment on Paperwork Reduction Act burden estimates” on December 21, 2006. 71 Fed. Reg. 76580.

The final rule extends compliance dates under the Sarbanes-Oxley Act of 2002. Under section 404 of the Act, a company’s management must report on its annual assessment of its internal control over financial reporting and the company’s auditor must prepare an attestation on that report. Under the extension, smaller companies are not required to comply with the requirement until they file an annual report for the first fiscal year ending on or after December 15, 2007. In addition, these smaller companies are not required to comply with the auditor attestation report until they file their annual report for the first fiscal year ending on or after December 15, 2008. Separately, under a new transition period, newly public companies are not required to comply with the internal control over financial reporting provisions until their second annual report.

Enclosed is our assessment of the Commission'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 Commission 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 Richard Hillman, Managing Director, Financial Markets and Community Investment. Mr. Hillman can be reached at (202) 512-8678.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: J. Lynn Taylor  
Assistant 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  
"INTERNAL CONTROL OVER FINANCIAL REPORTING IN  
EXCHANGE ACT PERIODIC REPORTS OF NON-ACCELERATED  
FILERS AND NEWLY PUBLIC COMPANIES"  
(RIN: 3235-AJ64)

(i) Cost-benefit analysis

The Securities and Exchange Commission prepared a cost-benefit analysis of the final rule. The analysis found that the cost savings derived from the year smaller companies are not required to include an auditor's attestation will likely be substantial since some published surveys estimate that section 404 compliance costs can exceed \$1 million per company and these changes apply to thousands of small companies.

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

The Commission prepared a Final Regulatory Flexibility Analysis in connection with the final rule. The analysis found that the final rule will ease the burdens on smaller companies.

(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 Commission is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(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 found at 5 U.S.C. 553. On August 9, 2006, the Commission published a Notice of Proposed Rulemaking in the Federal Register. 71 Fed. Reg. 47060. In response, the Commission received 36 comments, which are discussed in the preamble to the final rule.

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 Reduction Act. The collections have been approved by OMB. However, the final rule has altered the annual burden hours of the collections and the Commission has submitted new burden hour estimates to OMB for its consideration.

Statutory authorization for the rule

The final rule is promulgated under the authority found in sections 12, 13, 15, and 23 of the Exchange Act.

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.