

Sarbanes Oxley Act, 2002 – An Indian Perspective



The Sarbanes Oxley Act 2002, which is applicable to all publicly-registered companies under the jurisdiction of Securities and Exchange Commission, is a far reaching legislation, effecting significant changes to laws concerning directors and reporting obligations of public companies, and mandating a myriad of new regulations to prevent securities fraud and other abuses. This article primarily looks at the implications of the Act in India – for Companies, Audit Profession and the BPO Industry.

“The Sarbanes Oxley Act will bring the most far reaching reforms of American business practices since the time of Franklin Delano Roosevelt” – said President George W Bush, while signing of the Sarbanes-Oxley Act of 2002.

In July 2002, the United States Congress passed the Sarbanes-Oxley Act (“the Act”/SOX) into law. The Act was primarily designed to restore investor confidence following well-publicised bankruptcies that brought chief executives, audit committees, and the independent auditors under heavy scrutiny. The Act is applicable to all publicly registered companies under the jurisdiction of the Securities and

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Exchange Commission (SEC). SOX is a far reaching legislation, effecting significant changes to laws affecting officers, directors and reporting obligations of public companies, and mandating a myriad of new regulations to prevent securities fraud and other abuses.

Overview of the Act

The Sarbanes Oxley Act called for the formation of a Public Company Accounting Oversight Board (PCAOB) and specified several requirements (“sections”) that include management’s quarterly certification of the financial results (Section 302) and management’s annual assertion that internal controls over financial reporting are effective

(Section 404) among others.

The Act has largely ignored the differences in practices and corporate governance regimes between the United States and other countries, and has extended the reach of the United States’ laws to many aspects of the internal affairs and governance regimes of foreign companies and their auditors. There are of course certain reliefs for Foreign Private Issuers (“FPI”) in the act.

Some of the key sections related to Audit and Financial Reporting are:

The PCAOB: Sections 101-109 of the Act has established a new body, the Public Company Accounting Oversight Board (PCAOB), to oversee the auditing of public companies. All accounting firms that audit the financial statements of The Securities Exchange Act of 1934 (“1934 Act”) Reporting Issuers (Issuers of Securities who

are mandated to report under the 1934 Act) must register with and provide periodic reports to the Board. Registered accounting firms are subject to Board-adopted audit, quality control and ethics standards, periodic inspections and possible disciplinary proceedings. It will be illegal for a non-registered accounting firm to “prepare or issue, or to participate in the preparation or issuance of, any audit report” with respect to any 1934 Act Reporting Issuer.

Section 106 of the Act specifically provides that it will apply to any foreign public accounting firm (Indian Audit Firm in the context of this article) that prepares or furnishes an audit report with respect to any 1934 Act Reporting Issuer. The Board is also given the authority to determine, by rule that a foreign accounting firm that does not issue an audit report for a 1934 Act Reporting Issuer may nonetheless play such a substantial role in an audit that it is appropriate that such firm should be subject to the Board’s authority. The Act provides that if a foreign firm issues an audit opinion for a 1934 Act Reporting Issuer or otherwise performs material services upon which an auditing firm relies, that foreign firm is deemed to have consented to producing its audit work papers for the Board and to be subject to the jurisdiction of US courts for enforcement of requests for production of documents. In addition, a domestic auditing firm that relies upon the opinion of a foreign accounting firm in issuing an audit opinion for a 1934 Act Reporting Issuer is deemed (1) to have consented to supplying the audit work papers of the foreign accounting firm to the Board and (2) to have secured the agreement of that foreign firm to the production of the

foreign firm’s work papers.

Section 106(c) of the Act authorises the Securities Exchange Commission (SEC) and the Board to exempt foreign accounting firms from any provision of the Act or any rules of the SEC or the Board issued under the Act (by rule or by order) as the SEC or the Board “determines necessary or appropriate in the public interest or for the protection of investors.”

Section 302 (Corporate Responsibility for Financial Reports) directs the SEC to adopt rules requiring the principal executive officer and the principal financial officer (or equivalent) of 1934 Act Reporting Issuers to provide certifications in each “annual” and “quarterly” report “filed” or “submitted” under the 1934 Act. The certification relates to the content of the report, internal controls of the issuer and disclosure to the audit committee.

Section 906 (Failure of Corporate Officers to Certify Reports), which is similar to but separate from Section 302, is a criminal law provision requiring that each “periodic” report containing financial statements that is “filed” by a 1934 Act Reporting Issuer be accompanied by a written statement of the

chief executive officer and chief financial officer (or equivalent). The statement must certify that the “periodic report containing the financial statements” fully complies with the requirements of the 1934 Act and also must certify that the information contained in the periodic report “fairly presents, in all material respects, the financial condition and results of operations of the issuer.” This Section contains no exceptions for Foreign Private Issuers, although the SEC has the authority under the 1934 Act to determine the “periodic” reports that may be required to be “filed” under the 1934 Act.

Section 404 (Management Assessment of Internal Controls) requires the SEC to prescribe rules requiring each annual report required under the 1934 Act to contain an internal control report stating management’s responsibility for internal controls and assessing the effectiveness of internal controls. This section also requires the auditors for the issuer to attest to and report on management’s assessment in accordance with standards to be adopted by the Board.

Section 404 has generated tremendous interest and debate for accountants and is by far the most important one from the Financial Reporting perspective.

The Sarbanes Oxley Act’s Section 404, which deals with Management Assessment of Internal Controls, has generated tremendous interest and debate for accountants and is by far the most important one from the Financial Reporting perspective.

What Does Section 404 Entail?

As directed by Section 404 of the Sarbanes Oxley Act of 2002, the Securities and Exchange Commission (SEC) adopted rules regarding internal controls at public companies in May 2003. Section 404 also requires that a company’s independent auditors attest to and report on management’s controls assessments, following standards

established by the PCAOB.

Under the SEC rules, management's annual internal-control report must contain:

- A statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting for the company.
- A statement identifying management's framework for evaluating the effectiveness of internal controls.
- Management's assessment of the effectiveness of internal controls as of the end of the company's most recent fiscal year.
- A statement that the company's auditor has issued an attestation report on management's assessment.

Internal controls, according to the new rule, include assurances of accurate records maintenance, as well as financial reporting that comply with generally accepted accounting principles. The rule also stipulates that managers and directors sign off on receipts and payouts, and that publicly traded companies maintain adequate systems to prevent or detect unauthorized material transactions.

Management must disclose any material weakness in a company's internal-controls structure. If material weaknesses exist, senior executives "will be unable to conclude that the company's internal control over financial reporting is effective," according to the SEC.

PCAOB Issued Auditing Standard No. 2: "An Audit of Internal Control Over Financial Reporting Conducted in Conjunction With an Audit of Financial Statements" This standard was approved by the Securities and Exchange Commission on June 17, 2004, and is effective for audits of internal



control over financial reporting required by Section 404 (b) of the Sarbanes Oxley Act of 2002. It is a very detailed standard. PCAOB also issued Auditing Standard No. 3: "Audit Documentation" This standard was approved by the Securities and Exchange Commission on August 25, 2004, and is effective for audits of financial statements with respect to fiscal years ending on or after November 15, 2004.

The auditing standard addresses both the work that is required to audit internal control over financial reporting and the relationship of that audit to the audit of the financial statements. The integrated audit results in two audit opinions: one on the internal controls and the other on the financial statements.

The standard also requires the auditor to communicate in writing to the company's audit committee all significant deficiencies and material weaknesses of which the auditor is aware. The auditor also is required to communicate in writing to the company's management all internal control deficiencies, and to notify the audit committee that such communication has been made.

Section 404 draws attention to the significant processes that feed and comprise the financial reporting for an organization. In order for management to make its annual assertion on the effectiveness of its internal control, management will

be required to document and evaluate all controls that are deemed significant to the financial reporting process.

Implications for Indian Companies issuing securities in US markets

Most of the SOX titles are directed towards "Issuers" of securities, whether US or non-US, there is no distinction.

An 'Issuer' has been defined as any issuer that:

- has securities registered under section 12 of the Securities Exchange Act of 1934 (Exchange Act); or
- is required to file reports with the SEC under section 15(d) of the Exchange Act; or
- has filed a registration statement under the securities Act of 1933 (Securities Act), which has not become effective or been withdrawn

Some provisions apply to 'Persons' (whether or not issuers)

- Securities, mail and wire fraud (various sections of Titles IX and XI)
- Obstruction of justice (various sections of Titles VIII and XI)
- Retaliation against whistleblowers (various sections of Titles VIII and XI)

Law contains no specific exemption for non-US companies. Non-US companies are bound by the SOX by the following definition:

"Foreign Private Issuer" is a company that is incorporated outside the US. and in which:

- ↘ US residents do not hold a majority of the shares; or
- ↘ If US residents do hold a majority of the shares, then
 - ☞ A majority of its directors and officers are not US. citizens or residents,

- ☞ Its business is administered from outside the US. and
- ☞ A majority of its assets are located outside the US.

Implications for Indian Company:

Any Indian company that has its securities listed on NYSE (New York Stock Exchange), AMEX (American Stock Exchange) or NASDAQ (National Association of Securities Dealers Automated Quotations), either directly or through Levels II or III ADR's, Filing Form 20-F's (Registration of securities of foreign private issuers pursuant to section 12(b) or (g), Registration of securities pursuant to section 12(b) or 12(g)) and Form 6-K's (Report of foreign issuer pursuant to Rules 13a-16 and 15d-16) and those who have filed a registration statement with SEC need to 'Fully' comply with SOX. Implications include – Extraterritorial reach beyond the US; criminal sanctions for senior management in breach of certain clauses; enhanced disclosure based on rigorous internal controls reporting; certification by senior management; and independence requirements for audit committee members – just to name a few.

Implications for the Auditors of the FPI (Indian Company)

- ☞ Audit Firm / Auditor to be registered with PCAOB.
- ☞ Audit Firm / Auditor to be regulated / monitored by PCAOB.
- ☞ Mandatory Audit partner (but not audit firm) rotation.
- ☞ Stringent limitations on non-audit services.

Note on the above implications: SOX rule-making is evolving and it has an extraterritorial reach beyond the US. There have been concerns by FPI's & auditors on various counts. This could relate to conflict of laws

Indian Audit profession is widely appreciated around the world for its high standards and as such managements of US companies generally can't have any issues with accepting SAS 70 certifications by Indian Audit firms.

and business practices in the foreign country vis-à-vis US and the related implications. It has been observed that SEC has been taking a stand on these aspects on a case-to-case basis.

One recent example is the SEC's rule regarding the composition of audit committees of listed issuers. Sarbanes-Oxley required the SEC to pass a rule mandating that all members of audit committees be independent directors. But the corporate governance laws and regulations in Germany for instance, and a few other countries with dual board systems, required corporate audit committees to include a labour representative. SEC rules do not, however, consider employees of an issuer "independent" for fear that an unscrupulous corporate officer could appoint employees to the board who were obliged to the company's management. Following a dialogue with the European Union and others, the SEC was reassured that in those jurisdictions with dual boards, the mandatory labour representatives on issuer audit committees were firmly independent of the company's management. The resulting final rule relating to audit committees contained an exception for these jurisdictions that would allow employees who are not officers of a company to sit on the audit commit-

tee. This enables the affected issuers to comply with both sets of law. And it preserves the intent of Sarbanes-Oxley - to ensure that independent directors can communicate directly with auditors without management interference.

Another example of the SEC seeking to accommodate the special circumstances of foreign issuers came with the rules related to the publication of financial information presented in ways not strictly in compliance with US Generally Accepted Accounting Principles or GAAP. In this area, an exemption was given for non-GAAP communications outside the US, even where those communications reach the US.

A third example of accommodation was when the PCAOB ironed out some issues regarding oversight of foreign audit firms. Under the Sarbanes-Oxley Act, all audit firms, including non-US audit firms, providing significant audit services for issuers listed in the United States, are required to be registered and inspected by the PCAOB. Because of potential conflicts with foreign privacy laws and blocking statutes, the PCAOB has made some adjustments in the information requested of foreign firms during the registration process. In addition, the PCAOB is seeking a collaborative approach to developing its oversight role vis-à-vis non-US. audit firms, working with counterparts in Europe and elsewhere.

Implications for Subsidiaries of US companies in India

Subsidiaries or business units of US Issuer companies who need to comply with SOX in full could be subject to compliance in various aspects, most of which would be planned and taken care of the US

Issuer. Probably the most important would be the compliance of Section 404 – Management assessment of internal controls. The parent would determine the multiple locations that need to be covered for Internal control testing. This is usually based on the Significant accounts and the impact that the numbers of the subsidiary/business unit has on the overall company’s financial reports.

PCAOB has not established specific percentages to determine coverage. Often the goal of the parent company would be to determine which locations are individually important (financially significant) and thus yield sufficient coverage using meaningful quantitative metrics. The usual benchmark seen in practice is to cover at least 60 to 70 per cent of the company’s operations and financial position. The metrics could possibly be to cover any location that has more than 5% of annual revenues or pre tax income or total assets or equity (if applicable).

Once a location is determined to be important, the planned procedures would include a detailed evaluation and tests of controls over significant (or ‘specific risk’) accounts and disclosures at that location and testing of company level controls.

Implications for the Indian Subsidiary/Business Unit

– Need to work closely with the parent to ensure proper controls, risk management, disclosures, and various other aspects.

Implications for the Auditors of the Indian Subsidiary

– Mandatory Audit partner rotation will apply to partners that serve the client at the parent level. Partners serving a compa-

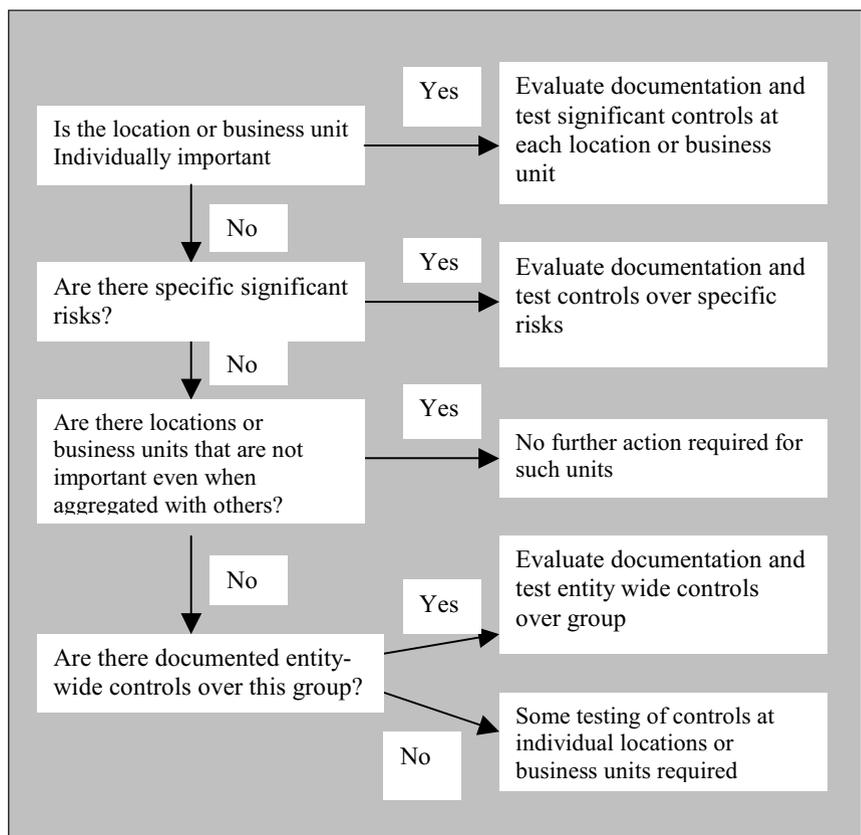
SOX rule-making is evolving and it has an extraterritorial reach beyond the US. It is imperative that Indian BPO companies have a strong framework of Internal Controls and are transparent to their clients. Well-defined processes, proper documentation etc. will be of paramount importance in view of Sarbanes Oxley Act, 2002.

ny’s subsidiary will be subject to rotation only if they are lead partners and the subsidiary’s revenues constitute 20% or more of the consolidated assets or revenues of the parent.

– The Act provides that if a foreign firm (Indian Audit Firm) issues

an audit opinion for a 1934 Act Reporting Issuer or otherwise performs material services upon which an auditing firm relies, that foreign firm is deemed to have consented to producing its audit work papers for the Board and to be subject to the jurisdiction of US courts for enforcement of requests for production of documents. In addition, a domestic auditing firm (US Audit Firm) that relies upon the opinion of a foreign accounting firm in issuing an audit opinion for a 1934 Act Reporting Issuer is deemed (1) to have consented to supplying the audit work papers of the foreign accounting firm to the Board and (2) to have secured the agreement of that foreign firm to the production of the foreign firm’s work papers.

MULTI LOCATION TESTING CONSIDERATIONS



Implications for BPO Industry in India

The Business Process Outsourcing (BPO) industry is witnessing tremendous growth. According to NASSCOM, the Financial Services is poised for tremendous growth. Indian BPO Industry is going up the value chain. India is expecting huge growth in the Finance, Accounting, Payroll, Accounts Payable and other financial processes to move to India from US business houses.

It is interesting to note that there could be a SOX implication for an Indian Company that is neither a FPI nor a Subsidiary of a US Company. Here is how:

A little-known and perhaps largely outdated auditing standard for outsourcers could be the next big hurdle for Sarbanes-Oxley compliance. Not only might the standard cause a number of businesses to run afoul of the Section 404 provisions on internal controls, but it might also dissuade other companies from business process outsourcing in India, China, and other emerging nations.

The standard in question is Statement on Auditing Standards No. 70, "Reports on the Processing of Transactions by Service Organizations." Set up by the American Institute of Certified Public Accountants in 1993, SAS 70 spells out how an external auditor should assess the internal controls of an outsourcing service provider and issue an attestation report to outside parties or to a client.

When a US Company uses a Service organisation to process its financial data, the management is ultimately responsible for the internal control over its financial information under section 404 of SOX. Typically the management would

SARBANES OXLEY ACT, 2002-LISTING OF TITLES

- ☞ Title I – Public Company Accounting Oversight Board (Sections 101-109)
- ☞ Title II – Auditor Independence (Sections 201-209)
- ☞ Title III – Corporate Responsibility (Sections 301-308)
- ☞ Title IV – Enhanced Financial Disclosures (Sections 401-409)
- ☞ Title V – Analyst Conflicts of Interest (Section 501)
- ☞ Title VI – Commission Resources and Authority (Sections 601-604)
- ☞ Title VII – Studies and Reports (Sections 701-705)
- ☞ Title VIII – Corporate and Criminal Fraud Accountability (Sections 801-807)
- ☞ Title IX – White Collar Crime Penalty Enhancements (Section 901-906)
- ☞ Title X – Corporate Tax Returns (Section 1001)
- ☞ Title XI – Corporate Fraud and Accountability (Sections 1101 to 1107)

go about doing the following:

- Determine if a service organisation is being used.
- Determine if the outsourced activities, processes, and functions are significant to the company's internal control over financial reporting.
- Determine if a Type II SAS 70 report exists and is sufficient in scope.
- If a Type II SAS 70 report does not exist, determine alternative procedures.

SAS 70 Overview

Statement on Auditing Standards (SAS) No. 70, Service Organizations, is an auditing standard developed by the American Institute of Certified Public Accountants (AICPA). A SAS 70 audit or service auditor's examination is widely recognized, because

it represents that a service organization has been through an in-depth audit of their control activities, which generally include controls over information technology and related processes. In today's global economy, service organizations or service providers must demonstrate that they have adequate controls and safeguards when they host or process data belonging to their customers. In addition, the requirements of Section 404 of the Sarbanes-Oxley Act of 2002 make SAS 70 audit reports even more important to the process of reporting on effective internal controls at service organisations.

SAS No. 70 is the authoritative guidance that allows service organisations to disclose their control activities and processes to their customers and their customers' auditors in a uniform reporting format. A SAS 70 examination signifies that a service organisation has had

its control objectives and control activities examined by an independent accounting and auditing firm. A formal report including the auditor's opinion ("Service Auditor's Report") is issued to the service organisation at the conclusion of a SAS 70 examination.

SAS 70 provides guidance to enable an independent auditor ("service auditor") to issue an opinion on a service organization's description of controls through a Service Auditor's Report. SAS 70 is not a pre-determined set of control objectives or control activities that service organizations must achieve. Service auditors are required to follow the AICPA's standards for fieldwork, quality control, and reporting. A SAS 70 examination is not a "checklist" audit.

SAS No. 70 is generally applicable when an auditor ("user auditor") is auditing the financial statements of an entity ("user organization") that obtains services from another organization ("service organization"). Service organizations that provide such services could be application service providers, bank trust departments, claims processing centers, Internet data centers, or other data processing service bureaus.

In an audit of a user organization's financial statements, the user auditor obtains an understanding of the entity's internal control sufficient to plan the audit as required in SAS No. 55, Consideration of Internal Control in a Financial Statement Audit. Identifying and evaluating relevant controls is generally an important step in the user auditor's overall approach. If a service organization provides transaction processing or other data processing services to the user organization, the user auditor may be required to gain an understanding

of the controls at the service organization.

Service Auditor's Reports: One of the most effective ways a service organisation can communicate information about its controls is through a Service Auditor's Report. There are two types of Service Auditor's Reports: Type I and Type II.

A **Type I** report describes the service organization's description of controls at a specific point in time (e.g. December 31, 2004). A **Type II** report not only includes the service organization's description of controls, but also includes detailed testing of the service organization's controls over a minimum six month period (e.g. July 1, 2004 to December 31, 2004). The contents of each type of report are described in the following table:

Report Contents	Type I Report	Type II Report
1. Independent service auditor's report (i.e. opinion).	Included	Included
2. Service organization's description of controls.	Included	Included
3. Information provided by the independent service auditor; includes a description of the service auditor's tests of operating effectiveness and the results of those tests.	Optional	Included
4. Other information provided by the service organization (e.g. glossary of terms).	Optional	Optional

In a Type I report, the service auditor will express an opinion on (1) whether the service organization's description of its controls presents fairly, in all material respects, the relevant aspects of the service organization's controls that had been placed in operation as of a specific date, and (2) whether the controls

were suitably designed to achieve specified control objectives.

In a Type II report, the service auditor will express an opinion on the same items noted above in a Type I report, and (3) whether the controls that were tested were operating with sufficient effectiveness to provide reasonable, but not absolute, assurance that the control objectives were achieved during the period specified.

Implications for Indian BPO Companies: It is imperative that Indian BPO companies have a strong framework of Internal Controls and are transparent to their clients. Well-defined processes, proper documentation etc. will be of paramount importance in view of the Sarbanes Oxley Act, 2002.

Service organizations receive significant value from having a

SAS 70 engagement performed. A Service Auditor's Report with an unqualified opinion that is issued by an Independent Accounting Firm differentiates the service organization from its peers by demonstrating the establishment of effectively designed control objectives and control

activities.

Without a current Service Auditor's Report, a service organization may have to entertain multiple audit requests from its customers and their respective auditors. Multiple visits from user auditors can place a strain on the service organization's resources. A Service Auditor's Report ensures

that all user organizations and their auditors have access to the same information and in many cases this will satisfy the user auditor's requirements.

SAS 70 engagements are generally performed by control oriented professionals who have experience in accounting, auditing, and information security. A SAS 70 engagement allows a service organization to have its control policies and procedures evaluated and tested (in the case of a Type II engagement) by an independent party. Very often this process results in the identification of opportunities for improvements in many operational areas.

Implications for Indian Audit Firms

Assignments to conduct a SAS 70 certification can prove to be a new area of work. Management of US companies could rely on SAS 70 certification by non-US audit firms as long as the reports are issued under other standards that follow the criteria of SAS 70. Management would also need to evaluate the competency and qualifications of the auditor performing the examination. The Indian Audit profession is widely appreciated around the world for its high standards. Managements of US companies should not have any issues with accepting SAS 70 certifications by Indian Audit firms.

Factors to be considered by Management when a service organisation outsources certain functions to another service organisation:

In what is becoming a popular business model for BPO's in India, an interesting situation could come up when an US corporate uses a service organisation (Indian Company) that in turn uses another



service organisation (a sub service organisation) to perform the work. In such a scenario the Management of the User organisation needs to consider controls at the sub service organisation. In addition to that, the following also needs to be considered:

- ☞ The nature and materiality of the transactions processed by the sub service organisation
- ☞ The contribution of the sub service organisations processes in the achievement of the user organisations information processing objectives
- ☞ The availability of a sub service organisations SAS 70 report

Because a user organisation typically does not have any contractual relationship with the sub service organisation, a user organisation should obtain available reports and information about the sub service organisation from the service organisation.

Certain Issues related to SAS 70

SAS 70 was finalised in March

1993. There is an existing line of thought that it is outdated in certain aspects and may not really cater to the requirements of Section 404 of SOX. Critics say that a major overhaul is needed.

Even a Type II report, however, doesn't guarantee airtight compliance with Sarbanes-Oxley. For one thing, the timing of the audit — if it's performed by the service provider's auditor — might be out of sync with the client's reporting period. If the audit is performed in June and the client's fiscal year ends December 31, for instance, there's a six-month gap in the attestation of the outsourcer's internal controls. If there are control slip ups during the second half of the year, the accuracy and reliability of the client's own year-end attestation could be compromised — and fair game for a Securities and Exchange Commission inquiry.

One response to the timing issue is to request that the service provider undergo SAS 70 audits on a quarterly basis or "fill in the gaps" with updates throughout the year.

Smaller service providers might bridle at the added cost during contract negotiations — but after all; it’s the client’s attestation that’s on the line.

Another concern for outsourcer auditor is just how much of the service provider’s audit is being revealed. A service provider is required to inform its client only about any failures of SAS 70 tests; there’s no requirement to spell out the exact substance or scope of the audit.

Thus, for instance, a client’s own external auditor would be unable to tell the client whether a test that unearthed two failures probed 40 processes, or only four. That could lead to some poor assessments of service-provider controls.

Conclusion

We can wrap up this discussion by quoting from the speech by SEC Chairman, William H Donaldson recently on the topic ‘US Capital Markets in the Post-Sarbanes-Oxley World: Why Our Markets Should Matter to Foreign Issuers’ in London. The following words are relevant to this article:

“Now, two-and-a-half years later (since SOX became operational), some critics claim the Sarbanes-Oxley Act goes too far. In particular, these critics charge that requiring certification of internal controls - the so-called Section 404 provision of Sarbanes-Oxley - is too expensive and unnecessary. Section 404 has even led some foreign issuers to declare that they may wish to leave America’s capital markets altogether rather than have their internal controls certified.

It is easy for an individual issuer to look at the cost of compliance with US federal securities laws and balk. But the cost of capital also comes with benefits. US. capital markets are deep and liquid. Nearly half of all the world’s equity shares, by market capitalization, trade in the United States. And non-US. investors have approximately \$4.5 trillion invested in US. stock markets.

The requirements of Sarbanes-Oxley cannot be evaluated in a vacuum. They are important because they have produced, and will pro-

duce, improvements that help to restore and reinforce investor confidence in our markets, and lower the cost of capital to issuers. Section 404, for example, reaffirms that US. legislators are serious about internal control requirements. It is already clear that Section 404 is helping to strengthen the business operations of those US. and foreign issuers who have seized the opportunity to use the internal controls assessment as a managerial opportunity and not simply a compliance exercise.

The SEC remains committed to a level playing field for all its issuers, foreign and domestic alike. But we recognize that cross-border listings frequently entail issuers having to navigate duplicative or even contradictory regulations in different jurisdictions. While the SEC is unwilling to compromise where investor protections are concerned, some duplicative or contradictory regulations can compromise those protections and place an unnecessary burden on issuers, firms and investors.”

Comparison of US Regulatory Structure Before and After Sarbanes Oxley

Description	Before Sarbanes Oxley	After Sarbanes Oxley
Regulatory Oversight	Securities and Exchange Commission (SEC)	Securities and Exchange Commission (SEC)
Public Interest Oversight	Public Oversight Board (POB)	Public Company Accounting Oversight Board (PCAOB), a quasi governmental organisation that will be responsible for establishing and /or monitoring groups that establish:
Professional organisation and its associated regulatory role: -Auditing Standards - Professional Ethics -Audit quality control standards Peer review of auditing firms	American Institute of CPA's (AICPA), a professional organisation with regulatory responsibilities through its: - Auditing Standards Board (ASB) - Ethics Committee - SEC Practice section (SECPS)	-Auditing Standards -Auditor ethics and independence standards -Auditing firm quality control standards - Auditing firm peer review standards - Investigation of rule violations - Sanctions of violators
Accounting Standards	Financial Accounting Standards Board (FASB)	Financial Accounting Standards Board (FASB)