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## **Sarbanes-Oxley: Smaller Companies Bear the Brunt of Compliance Costs**

**By Benjamin Lenhart**

In 2002, Congress passed the Sarbanes-Oxley Act, sweeping legislation to reform federal securities laws in response to Enron, Worldcom and other corporate scandals. Since then, many of the notable culprits have been successfully prosecuted and are either serving hard time in prison or have passed away. Yet the legislation (commonly called SOX) remains, along with the spate of related Securities and Exchange Commission rules. And so do the compliance costs facing Oregon's public companies.

Various surveys and studies released over the past few months estimate that overall compliance costs for public companies since the adoption of SOX ranged from \$14 to \$20 billion. The good news: Annual costs may fall in the coming years by 7% to 22%, at least for public companies with floats in excess of \$1 billion. The bad news: Annual costs may rise sharply for the 52% of all public companies who happen to have less than \$75 million in public float - unless the SEC or Congress takes action.

The full cost of SOX has yet to be fully realized for these smaller public companies. SOX Section 404 requires companies to include in their annual reports a management report of the company's internal controls over financial reporting, along with a corresponding auditor's attestation report. Recognizing the potential financial hardship that Section 404 imposes on smaller public companies, the SEC twice delayed the implementation of Section 404 reporting requirements. Right now, these smaller public companies must begin such reporting for (and therefore implement the necessary internal controls and procedures prior to) fiscal years ending on or after July 15, 2007.

A glimmer of hope remains. The SEC was concerned enough about the impact of SOX that it created the Advisory Committee on Smaller Public Companies to study a number of issues (particularly SOX and Section 404). Earlier this year, the advisory committee issued its final report containing a variety of recommendations. The gist: The SEC needs to adopt scalable rules that are proportional in relation to the size of the company, rather than the current one-size-fits-all approach.

It remains unclear how (or if) the SEC will respond to the recommendations. Smaller public companies will need scaled, proportional regulations to avoid the financial burdens of SOX. Otherwise, they will be faced with hard decisions, such as going dark or going private to avoid the compliance costs.

While larger public companies might rejoice in decreased, or at least more certain, compliance costs, smaller public companies have to hope for Congressional or SEC intervention.

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