

107TH CONGRESS
2D SESSION

S. 2247

To provide for the regulation of public accounting firms for purposes of the Federal securities laws, to promote quality and transparency in financial reporting, to improve the quality of independent audits and accounting services through an Independent Public Accounting Oversight Board, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 24, 2002

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide for the regulation of public accounting firms for purposes of the Federal securities laws, to promote quality and transparency in financial reporting, to improve the quality of independent audits and accounting services through an Independent Public Accounting Oversight Board, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Truth in Auditing Act of 2002”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

TITLE I—INDEPENDENT PUBLIC ACCOUNTING OVERSIGHT
BOARD

- Sec. 101. Designation of Independent Public Accounting Oversight Board.
- Sec. 102. Administrative rules of the Board.
- Sec. 103. Duties of the Board.
- Sec. 104. Securities and Exchange Commission oversight of the Board.

TITLE II—AUDITOR STANDARDS

- Sec. 201. Registration of public accounting firms.
- Sec. 202. Auditor independence.
- Sec. 203. Investigations and disciplinary proceedings.
- Sec. 204. Foreign public accounting firms.
- Sec. 205. Certification required.
- Sec. 206. Commission rules and enforcement.

3 **SEC. 2. PURPOSES.**

4 The purposes of this Act are to provide for—

5 (1) the designation of an Independent Public
 6 Accounting Board, subject to oversight by the Secu-
 7 rities and Exchange Commission;

8 (2) the registration of public accounting firms
 9 that prepare audit reports regarding financial state-
 10 ments, reports, or other documents required to be
 11 filed with the Commission under the securities laws;

12 (3) the establishment of rules regarding quality
 13 control and auditing standards that are designed to
 14 improve the quality of the audits conducted by pub-
 15 lic accounting firms;

1 (4) public and private enforcement of such rules
2 and methods of a continuing inspection program of
3 the accounting and auditing practices of registered
4 public accounting firms; and

5 (5) investigation of and discipline of such firms
6 and persons associated with such firms, who
7 violate—

8 (A) this Act;

9 (B) the securities laws;

10 (C) the rules of the Board; or

11 (D) professional standards.

12 **SEC. 3. DEFINITIONS.**

13 In this Act, the following definitions shall apply:

14 (1) **APPROPRIATE STATE REGULATORY AU-**
15 **THORITY.**—With respect to a registered public ac-
16 counting firm or associated person thereof, the term
17 “appropriate State regulatory authority” means the
18 State agency or other authority responsible for the
19 licensure or other regulation of the practice of ac-
20 counting in the State having jurisdiction over the
21 firm or associated person.

22 (2) **AUDIT COMMITTEE.**—The term “audit com-
23 mittee” means a committee (or equivalent body) of
24 the board of directors of an issuer with responsibility
25 for board oversight of the financial reporting, inter-

1 nal accounting controls, independent audits, and fi-
2 nancial statements of the issuer, and, where applica-
3 ble, the internal audit functions of the issuer, or a
4 committee of the board of directors having equiva-
5 lent functions, or, if no such committee exists with
6 respect to an issuer, the entire board of directors of
7 the issuer.

8 (3) AUDIT REPORT.—The term “audit report”
9 means a document or other record—

10 (A) prepared in connection with auditing
11 services performed for any issuer for purposes
12 of compliance by the issuer with the require-
13 ments of the securities laws; and

14 (B) in which a registered public accounting
15 firm—

16 (i) sets forth the opinion of that firm
17 regarding a financial statement, report, or
18 other document; or

19 (ii) asserts that no such opinion can
20 be expressed.

21 (4) AUDIT SERVICES.—The term “audit serv-
22 ices” means any professional service provided by a
23 registered public accounting firm or an associated
24 person thereof, to an issuer in connection with the
25 preparation or issuance of an audit report, or a re-

1 view of the financial statements of an issuer in ac-
2 cordance with professional standards.

3 (5) BOARD.—The term “Board” means the en-
4 tity designated as the Independent Public Account-
5 ing Oversight Board pursuant to section 101.

6 (6) COMMISSION.—The term “Commission”
7 means the Securities and Exchange Commission.

8 (7) ISSUER.—The term “issuer” has the same
9 meaning as in section 3 of the Securities Exchange
10 Act of 1934 (15 U.S.C. 78c).

11 (8) INTERMEDIARY.—The term “intermediary”
12 means those parties who may advise 1 or more prin-
13 cipals to a transaction, and may include attorneys
14 and investment, merchant, and commercial bankers.

15 (9) NON-AUDIT SERVICES.—The term “non-
16 audit services” means any professional services pro-
17 vided to an issuer by a registered public accounting
18 firm or an associated person thereof, other than
19 those provided to an issuer in connection with the
20 preparation or issuance of an audit report or a re-
21 view of the financial statements of an issuer in ac-
22 cordance with professional standards.

23 (10) PERSON ASSOCIATED WITH A PUBLIC AC-
24 COUNTING FIRM.—The terms “person associated
25 with a public accounting firm” and “associated per-

1 son of a public accounting firm” mean any indi-
2 vidual proprietor, partner, shareholder, principal, or
3 professional employee of that firm, or any other nat-
4 ural person or other entity associated with that firm,
5 that—

6 (A) shares in the profits of that firm; or

7 (B) engages in any conduct or practice by
8 that firm in connection with the preparation or
9 issuance of any audit report or the provision of
10 any audit service.

11 (11) PROFESSIONAL STANDARDS.—The term
12 “professional standards” means generally accepted
13 accounting principles, generally accepted auditing
14 standards, generally accepted standards for attesta-
15 tion engagements, generally accepted quality control
16 policies and procedures, and any other standards
17 that the Board or the Commission determines, by
18 rule—

19 (A) relate to the preparation of financial
20 statements or audit reports, or to auditor ethics
21 and independence; and

22 (B) are promulgated as rules of the Board
23 or by a standard setting body generally recog-
24 nized or endorsed by the Board, subject to the
25 approval of the Commission.

1 (12) PUBLIC ACCOUNTING FIRM.—The term
2 “public accounting firm” means—

3 (A) a sole proprietorship, incorporated as-
4 sociation, partnership, corporation, limited li-
5 ability company, limited liability partnership, or
6 other legal entity that is engaged in the practice
7 of public accounting or furnishing audit reports;
8 and

9 (B) to the extent so designated by the
10 rules of the Board, any associated person of an
11 entity described in subparagraph (A).

12 (13) REGISTERED PUBLIC ACCOUNTING
13 FIRM.—The term “registered public accounting
14 firm” means a firm registered with the Board in ac-
15 cordance with this Act.

16 (14) RULES OF THE BOARD.—The term “rules
17 of the Board” means the bylaws, rules, stated poli-
18 cies, standards, practices, interpretations, and other
19 instruments of the Board that the Commission, by
20 rule, may determine to be necessary or appropriate
21 in the public interest or for the protection of inves-
22 tors to be deemed to be rules of the Board.

23 (15) SECURITIES.—The term “securities” has
24 the same meaning as in section 3 of the Securities
25 Exchange Act of 1934 (15 U.S.C. 78c).

1 (16) SECURITIES LAWS.—The term “securities
2 laws” has the same meaning as in section 3(a) of
3 the Securities Exchange Act of 1934 (15 U.S.C.
4 78c(a)).

5 (17) STATE.—The term “State” means any
6 State of the United States, the District of Columbia,
7 Puerto Rico, the Virgin Islands, or any other terri-
8 tory or possession of the United States.

9 **TITLE I—INDEPENDENT PUBLIC**
10 **ACCOUNTING OVERSIGHT**
11 **BOARD**

12 **SEC. 101. DESIGNATION OF INDEPENDENT PUBLIC AC-**
13 **COUNTING OVERSIGHT BOARD.**

14 (a) DESIGNATION OF THE BOARD.—Not later than
15 180 days after the date of enactment of this Act, the Com-
16 mission shall designate an entity that meets the require-
17 ments of this Act and the rules of the Commission issued
18 under this Act as the Independent Public Accounting
19 Oversight Board, which shall be a self-regulatory entity,
20 subject to the oversight of the Commission, as provided
21 in this Act and applicable law.

22 (b) PRIVATE STATUS OF THE BOARD.—The Board,
23 as designated under this section, shall not, for any pur-
24 pose, be an agency or instrumentality of the Federal Gov-
25 ernment, and no officer, employee, member of the Board,

1 or other person associated with the Board shall be, for
2 any purpose, an officer or employee of the Federal Govern-
3 ment.

4 (c) DESIGNATION PROCEDURES.—Application by any
5 entity or organization for designation under subsection (a)
6 shall be in such form and subject to such procedures as
7 the Commission may require, as necessary or appropriate
8 in the public interest or for the protection of investors.

9 **SEC. 102. ADMINISTRATIVE RULES OF THE BOARD.**

10 (a) BOARD MEMBERSHIP.—

11 (1) APPOINTMENTS.—The Board shall be com-
12 prised of 5 members, appointed from among promi-
13 nent individuals of integrity and reputation who
14 have a demonstrated commitment to the interests of
15 investors and the public.

16 (2) LIMITATION.—Not more than 2 members of
17 the Board may be, on or before the date of appoint-
18 ment, or at any time during service on the Board,
19 certified public accountants.

20 (3) EXCLUSIONS.—No member of the Board
21 may—

22 (A) concurrent with service on the Board,
23 be engaged in the public practice of accounting;

1 (B) during the 3-year period preceding the
2 date of appointment to the Board, be an associ-
3 ated person of a public accounting firm; or

4 (C) share in any of the profits of, or re-
5 ceive payments from, a public accounting firm.

6 (4) FULL-TIME, INDEPENDENT SERVICE.—
7 Each member of the Board shall serve on a full-time
8 basis, and may not, concurrent with service on the
9 Board, be employed by any other entity.

10 (5) TERM OF SERVICE.—

11 (A) IN GENERAL.—Each term of service of
12 a member of the Board shall be for 5 years,
13 and until a successor is appointed, except
14 that—

15 (i) the terms of office of the initial
16 Board members (other than the Chair-
17 person) shall expire in annual increments,
18 as determined by the Commission at the
19 time of designation of the Board under
20 section 4, resulting in—

21 (I) 1 term expiring 1 year after
22 the initial date of appointment;

23 (II) 1 term expiring 2 years after
24 the initial date of appointment;

1 (III) 1 term expiring 3 years
2 after the initial date of appointment;
3 and

4 (IV) 1 term expiring 4 years
5 after the initial date of appointment;
6 and

7 (ii) any Board member appointed to
8 fill a vacancy occurring before the expira-
9 tion of the term for which the predecessor
10 was appointed shall be appointed only for
11 the remainder of that term.

12 (B) TERM LIMITATION.—No person may
13 serve as a member of the Board for more than
14 2 terms.

15 (6) APPOINTMENT COMMITTEE.—A 3-person
16 appointment committee, composed of the Chair-
17 person of the Board, the Comptroller General of the
18 United States, and the Chairman of the Commission
19 (or the designee of the Chairman), shall appoint new
20 members to the Board for each vacancy arising after
21 the initial designation of the Board.

22 (7) REMOVAL FROM OFFICE.—A member of the
23 Board may be removed from office for cause before
24 the expiration of the term of that member—

1 (A) by a majority vote of the other mem-
2 bers of the Board, subject to the rules of the
3 Board and the approval of the Commission; or

4 (B) by the Commission under section
5 104(f)(3).

6 (8) VACANCIES.—A vacancy on the Board shall
7 not affect its powers, but shall be filled in the same
8 manner as provided for appointments under this sec-
9 tion.

10 (9) CHAIRPERSON OF THE BOARD.—The Chair-
11 person of the Board—

12 (A) shall be selected by the Comptroller
13 General of the United States and the chair-
14 person of the Commission (or the designee of
15 the chairperson), from among the members of
16 the Board who were not, on or before the date
17 of appointment to the Board, or at any time
18 during service on the Board, certified public ac-
19 countants; and

20 (B) shall serve in such capacity for not
21 longer than two 5-year terms.

22 (b) RULES OF THE BOARD.—The rules of the Board
23 shall—

24 (1) provide for the operation and administration
25 of the Board, including the appointment of members

1 and the Chairperson of the Board, as required by
2 subsection (a);

3 (2) provide for the appointment and compensa-
4 tion of such accountants, attorneys, employees, and
5 consultants as may be necessary or appropriate to
6 carry out the functions of the Board in accordance
7 with this Act;

8 (3) establish procedures for the registration of
9 public accounting firms in accordance with this Act;

10 (4) establish procedures for the Board to enter
11 into contracts, incur expenses, and take such other
12 actions as may be necessary or appropriate for the
13 Board to perform its duties under this Act;

14 (5) establish the compensation of members of
15 the Board at a level comparable to similar profes-
16 sional positions in the private sector, subject to an-
17 nual review and approval by the Commission; and

18 (6) provide as otherwise required by this Act.

19 (c) ANNUAL REPORT.—

20 (1) SUBMISSION TO THE COMMISSION.—The
21 Board shall submit an annual report and proposed
22 budget to the Commission for review and approval,
23 at such times and in such form as the Commission
24 may reasonably require.

1 (2) CONTENTS.—Each report required by para-
2 graph (1) shall include a detailed description of the
3 activities of the Board, its audited financial state-
4 ments, and such other matters as the Board or the
5 Commission considers appropriate.

6 (3) TRANSMITTAL TO CONGRESS.—The Com-
7 mission shall transmit each report received under
8 this subsection to Congress.

9 **SEC. 103. DUTIES OF THE BOARD.**

10 (a) ESTABLISHMENT OF QUALITY CONTROL, INDE-
11 PENDENCE, AND AUDITING STANDARDS.—The rules of
12 the Board shall establish, and provide for the enforcement
13 of, such standards of auditor quality control, independ-
14 ence, and auditing standards, to be used by registered
15 public accounting firms in the preparation and issuance
16 of audit reports, as required by this Act and the rules of
17 the Commission, and as may be necessary or appropriate
18 in the public interest or for the protection of investors.

19 (b) INSPECTIONS.—

20 (1) IN GENERAL.—The rules of the Board shall
21 require the Board to conduct a continuing program
22 of inspections of each registered public accounting
23 firm, to assess compliance by that firm, and by asso-
24 ciated persons of that firm, with this Act, the rules

1 of the Board and the Commission, and professional
2 standards.

3 (2) INSPECTION FREQUENCY.—Inspections re-
4 quired by this subsection shall be conducted—

5 (A) annually with respect to each reg-
6 istered public accounting firm that regularly
7 provides audit reports for more than 100
8 issuers; and

9 (B) not less frequently than once every 3
10 years with respect to each registered public ac-
11 counting firm that regularly provides audit re-
12 ports for not more than 100 issuers.

13 (3) PROCEDURE.—The Board shall, with re-
14 spect to each inspection required by this
15 subsection—

16 (A) identify any act or practice, or omis-
17 sion to act, by the registered public accounting
18 firm, or by any associated person thereof, that
19 the Board determines may be in violation of
20 this Act, the rules of the Board or the Commis-
21 sion, or professional standards; and

22 (B) report any such act, practice, or omis-
23 sion to the Commission, the Attorney General
24 of the United States, and the appropriate State

1 regulatory authority for appropriate referral, in-
2 vestigation, and action.

3 (4) CONDUCT OF INSPECTIONS.—In conducting
4 inspections under this subsection, the Board shall—

5 (A) inspect selected audit and review en-
6 gagements of the registered public accounting
7 firm, performed at various offices and by var-
8 ious associated persons of the firm;

9 (B) evaluate the sufficiency of the quality
10 control system in place at the registered public
11 accounting firm;

12 (C) determine whether the policies and
13 procedures of the registered public accounting
14 firm have been adequately documented and
15 communicated to its employees and other asso-
16 ciated persons of the firm;

17 (D) assess whether the level of compliance
18 with the policies and procedures of the reg-
19 istered public accounting firm is sufficient to
20 reasonably assure conformity with professional
21 standards; and

22 (E) determine compliance by the registered
23 public accounting firm with professional ac-
24 counting, auditing, and independence and ethics
25 standards.

1 (5) RECORD RETENTION.—To facilitate inspec-
2 tions required under this section, the rules of the
3 Board shall address the retention of records by reg-
4 istered public accounting firms, including—

5 (A) which records are to be created and re-
6 tained;

7 (B) the required retention period for each
8 record identified under subparagraph (A); and

9 (C) the physical location where such
10 records shall be stored.

11 (6) REPORT.—The Board shall prepare a writ-
12 ten report of its findings for each inspection under
13 this subsection, which report shall be—

14 (A) accompanied by any letter or com-
15 ments by the Board or the inspector, and any
16 letter of response from the registered public ac-
17 counting firm under review;

18 (B) transmitted to the Commission;

19 (C) transmitted to the appropriate State
20 regulatory authority for appropriate referral, in-
21 vestigation, and action; and

22 (D) made available to the public.

23 (e) PENALTIES.—The rules of the Board shall—

24 (1) provide for disciplinary actions for reg-
25 istered public accounting firms and associated per-

1 (2) PRIOR APPROVAL REQUIRED.—No rule of
2 the Board required by this Act shall become effective
3 without approval of the Commission in accordance
4 with the requirements of this section, except as spe-
5 cifically authorized in this section.

6 (3) FILING WITH THE COMMISSION.—The
7 Board shall file with the Commission, in accordance
8 with such rules as the Commission may prescribe,
9 and before the effective date of any proposed rule,
10 copies of the proposed rule, accompanied by a con-
11 cise general statement of the basis and purpose of
12 the proposed rule.

13 (4) PUBLICATION OF NOTICE.—Not later than
14 60 days after the date of receipt of a filing of any
15 proposed rule under paragraph (3), the Commission
16 shall publish a public notice of the proposed rule, to-
17 gether with the terms and substance of the proposed
18 rule or a description of the subjects and issues in-
19 volved, in the Federal Register.

20 (5) OPPORTUNITY FOR COMMENT.—The Com-
21 mission shall provide to interested persons an oppor-
22 tunity to submit written data, views, and arguments
23 concerning any proposed rule of the Board.

24 (6) COMMISSION CONSIDERATION.—No pro-
25 posed rule may take effect unless approved by the

1 Commission, or otherwise permitted in accordance
2 with the provisions of this section.

3 (7) TIMING.—

4 (A) INITIAL COMMISSION DECISION.—Not
5 later than 35 days after the date of publication
6 of notice of a proposed rule in accordance with
7 paragraph (4), the Commission shall—

8 (i) by order, approve the proposed
9 rule; or

10 (ii) institute proceedings under para-
11 graph (9) to determine whether the pro-
12 posed rule should be disapproved.

13 (B) AUTHORITY TO EXTEND PERIOD.—

14 The 35-day period referred to in subparagraph
15 (A) may be extended by the Commission to not
16 more than 90 days after the date of publication
17 of notice under paragraph (4), upon consent of
18 the Board or upon a finding of the Commission
19 that such longer period is necessary or appro-
20 priate, and publication of its reasons for that
21 finding.

22 (8) CRITERIA FOR COMMISSION DETERMINA-
23 TION.—The Commission shall—

24 (A) approve a proposed rule, if the Com-
25 mission finds that the proposed rule is con-

1 sistent with the requirements of this Act and
2 the securities laws, or is necessary or appro-
3 priate in the public interest or for the protec-
4 tion of investors; and

5 (B) disapprove a proposed rule if it does
6 not make a finding described in subparagraph
7 (A), in accordance with paragraph (9).

8 (9) DISAPPROVAL PROCEDURES.—

9 (A) NOTICE AND HEARING.—If the Com-
10 mission institutes proceedings under paragraph
11 (7)(A)(ii), the Commission shall—

12 (i) notify the Board and other inter-
13 ested parties of the grounds for dis-
14 approval of the proposed rule;

15 (ii) provide to the Board and other in-
16 terested parties an opportunity for hearing;
17 and

18 (iii) not later than 180 days after the
19 date of publication of notice under para-
20 graph (4), conclude the proceedings and,
21 by order published in the Federal Register,
22 approve or disapprove the proposed rule,
23 except that the Commission may extend
24 such time period for up to 60 days if it
25 finds good cause for such extension and

1 publishes its reasons for that finding, or
2 for such longer period as to which the
3 Board consents.

4 (10) EFFECTIVE DATES.—

5 (A) IN GENERAL.—A proposed rule ap-
6 proved by the Commission under this subsection
7 shall take effect not earlier than 30 days after
8 the date of publication of notice under para-
9 graph (4), unless the Commission finds good
10 cause for an earlier effective date and publishes
11 its reasons for that finding.

12 (B) EXPEDITED APPLICABILITY.—

13 (i) RULE EFFECTIVE UPON FILING.—
14 Notwithstanding subparagraph (A), a pro-
15 posed rule may take effect upon the date
16 of receipt of a filing with the Commission
17 under paragraph (3), if the Board des-
18 ignates the proposed rule as—

19 (I) constituting a stated policy,
20 practice, or interpretation with respect
21 to the meaning, administration, or en-
22 forcement of an existing rule of the
23 Board;

1 (II) establishing or changing a
2 fee or other charge imposed by the
3 Board; or

4 (III) concerned solely with the
5 administration of the Board or other
6 matters which the Commission, by
7 rule, consistent with the public inter-
8 est and the purposes of this Act, may
9 exempt from the requirements of sub-
10 paragraph (A).

11 (ii) PROTECTION OF INVESTORS.—
12 Notwithstanding any other provision of
13 this subsection, a proposed rule may be
14 put into effect immediately if the Commis-
15 sion determines, after consultation with the
16 Board, or the Board determines, after con-
17 sultation with the Commission, that such
18 action is necessary for the protection of in-
19 vestors. A proposed rule subject to treat-
20 ment under this subparagraph shall be
21 filed with the Commission promptly in ac-
22 cordance with paragraph (3).

23 (iii) RULE ENFORCEMENT.—Any pro-
24 posed rule that has taken effect under this
25 subparagraph may be enforced by the

1 Board to the extent that it is not incon-
2 sistent with this Act, the securities laws,
3 the rules of the Commission, and other ap-
4 plicable Federal law.

5 (11) RULE ABROGATION.—

6 (A) GENERAL AUTHORITY.—Notwith-
7 standing any other provision of this section, or
8 any other provision of law, during the 60-day
9 period following the date of receipt of the filing
10 of a proposed rule under paragraph (3), the
11 Commission may abrogate any proposed rule
12 and require that the proposed rule be refiled in
13 accordance with paragraph (3), if the Commis-
14 sion determines that such action is necessary or
15 appropriate in the public interest, for the pro-
16 tection of investors, or otherwise in furtherance
17 of the purposes of this Act or the securities
18 laws.

19 (B) PROCEDURE.—Commission action
20 under this subparagraph—

21 (i) shall not affect the validity or force
22 of the subject rule during any period for
23 which it was in effect;

1 (ii) shall not be reviewable under sec-
2 tion 25 of the Securities Exchange Act of
3 1934 (15 U.S.C. 78y); and

4 (iii) shall not be a final agency action
5 for purposes of section 704 of title 5,
6 United States Code.

7 (c) POWER OF THE COMMISSION TO AMEND RULES
8 OF THE BOARD.—

9 (1) IN GENERAL.—The Commission, by rule or
10 order, may amend the rules of the Board (including
11 the abrogation, addition to, or deletion from such
12 rules), as the Commission determines necessary or
13 appropriate to—

14 (A) assure the fair administration of the
15 Board;

16 (B) conform the rules promulgated by the
17 Board to the requirements of this Act and the
18 securities laws; and

19 (C) otherwise further the purposes of this
20 Act or the securities laws.

21 (2) NOTICE.—The Commission shall notify the
22 Board and publish notice of a proposed rulemaking
23 under this subsection in the Federal Register, which
24 notice shall include the text of the proposed amend-
25 ment to the rules of the Board and a statement of

1 the reasons of the Commission, including the perti-
2 nent facts, for commencing such proposed rule-
3 making.

4 (3) HEARING.—The Commission, at its discre-
5 tion, may give interested persons an opportunity for
6 the oral presentation of data, views, and arguments,
7 in addition to an opportunity to make written sub-
8 missions, with respect to an action under this sub-
9 section. A transcript shall be kept of any such oral
10 presentation.

11 (4) STATEMENT OF BASIS AND PURPOSE.—A
12 rule adopted under this subsection shall incorporate
13 the text of the amendment to the rules of the Board
14 and a statement by the Commission on its basis for
15 and purpose in so amending such rules, including an
16 identification of any facts on which the Commission
17 considers its determination to amend the rules of the
18 Board to be based, including the reasons for the
19 conclusions of the Commission as to any facts that
20 were disputed in the rulemaking.

21 (5) CLARIFICATIONS.—

22 (A) NOT ON THE RECORD.—Except as
23 provided in paragraphs (1) through (4), rule-
24 making under this subsection shall be in ac-
25 cordance with the procedures specified in sec-

1 tion 553 of title 5, United States Code, for
2 rulemaking not on the record.

3 (B) NO IMPACT ON COMMISSION RULE-
4 MAKING AUTHORITY.—Nothing in this sub-
5 section shall be construed to impair or limit the
6 authority of the Commission to make, modify,
7 or alter the procedures that the Commission
8 may follow in making rules and regulations
9 under any other authority under this Act or the
10 securities laws.

11 (C) EFFECT OF COMMISSION AMEND-
12 MENTS TO BOARD RULES.—Any amendment to
13 the rules of the Board made by the Commission
14 under this subsection shall be considered for all
15 purposes of this Act and the securities laws to
16 be part of the rules of the Board, and shall not
17 be considered to be a rule of the Commission.

18 (d) COMMISSION REVIEW OF DISCIPLINARY ACTION
19 TAKEN BY THE BOARD.—

20 (1) NOTICE OF SANCTION.—If the Board im-
21 poses any final disciplinary or remedial sanction on
22 any registered public accounting firm or on any as-
23 sociated person of a registered public accounting
24 firm, the Board shall promptly file notice thereof
25 with the Commission, in such form and containing

1 such information as the Commission, by rule, may
2 prescribe as necessary or appropriate in furtherance
3 of the purposes of this Act and the securities laws.

4 (2) REVIEW OF SANCTION.—

5 (A) IN GENERAL.—Any sanction described
6 in paragraph (1) shall be subject to review by
7 the Commission, on its own motion, or upon ap-
8 plication by any person aggrieved thereby.

9 (B) APPLICATION FOR REVIEW.—An appli-
10 cation for review of a sanction described in
11 paragraph (1) shall be filed not later than 30
12 days after the date on which the aggrieved per-
13 son was notified of the sanction by the Board,
14 or within such longer period as the Commission
15 may determine appropriate.

16 (C) REVIEW DOES NOT SUSPEND SANC-
17 TION.—An application to the Commission for
18 review of a sanction described in paragraph (1),
19 or the institution of review by the Commission
20 on its own motion, shall not operate as a stay
21 of the sanction, unless the Commission other-
22 wise orders, summarily or after notice and op-
23 portunity for hearing on the question of a stay.
24 Such hearing may consist solely of the submis-
25 sion of affidavits or presentation of oral argu-

1 ments. The Commission shall establish an expedited procedure, in appropriate cases, for consideration and determination of the question of
2
3 a stay.
4

5 (e) DISPOSITION OF REVIEW.—

6 (1) NOTICE AND HEARING.—In any proceeding
7 to review a final disciplinary or remedial sanction
8 imposed by the Board on a registered public accounting firm or an associated person thereof, the
9 firm or person shall be provided with notice and an
10 opportunity for hearing. The hearing may consist
11 solely of consideration of the record before the
12 Board and an opportunity to present supporting reasons to affirm, modify, or set aside the sanction.
13
14

15 (2) AFFIRMATION.—The Commission shall, by
16 order, affirm a sanction imposed by the Board, if
17 the Commission finds that—

18 (A) the sanctioned registered public accounting firm or associated person has engaged
19 in such acts or practices, or has omitted to act,
20 as the Board has found that person to have engaged in or omitted;
21
22

23 (B) such acts or practices, or omissions to
24 act, are in violation of any provision of this Act,
25 the securities laws, the rules of the Board, or

1 professional standards, as have been specified
2 in the determination of the Board; and

3 (C) such provisions, laws, rules, or stand-
4 ards were applied with respect to the registered
5 public accounting firm or associated person in
6 a manner consistent with the purposes of this
7 Act and the securities laws.

8 (3) MODIFICATION.—If the Commission, having
9 due regard for the public interest and the protection
10 of investors, finds after a proceeding in accordance
11 with this subsection that a sanction imposed by the
12 Board upon a registered public accounting firm or
13 associated person thereof imposes a burden that is
14 not necessary or appropriate in furtherance of the
15 purposes of this Act or the securities laws, or is ex-
16 cessive or oppressive, the Commission may modify,
17 cancel, or require the remission of the sanction.

18 (4) CANCELLATION.—If the Commission does
19 not make a finding consistent with paragraph (2) or
20 (3), it shall, by order, set aside the sanction imposed
21 by the Board and, if appropriate, remand to the
22 Board for further proceedings.

23 (f) BOARD COMPLIANCE AND ENFORCEMENT.—

1 (1) COMPLIANCE.—The Board shall comply
2 with this Act, the securities laws, the rules of the
3 Commission, and the rules of the Board.

4 (2) ENFORCEMENT.—Absent reasonable jus-
5 tification or excuse, the Board shall enforce compli-
6 ance with this Act, the rules of the Board or the
7 Commission, and professional standards by reg-
8 istered public accounting firms and associated per-
9 sons thereof.

10 (g) CENSURE OF THE BOARD; OTHER SANCTIONS.—

11 (1) RESCISSION OF BOARD AUTHORITY.—The
12 Commission, by rule, consistent with the public in-
13 terest, the protection of investors, and the purposes
14 of this Act and the securities laws, may relieve the
15 Board of any responsibility under this Act to enforce
16 compliance with any provision of this Act, the secu-
17 rities laws, the rules of the Board or the Commis-
18 sion, or professional standards by any registered
19 public accounting firm or associated person thereof,
20 or any class of such firms or persons associated with
21 such firms.

22 (2) CENSURE OF THE BOARD; LIMITATIONS.—
23 The Commission may, by order, as it determines
24 necessary or appropriate in the public interest, for
25 the protection of investors, or otherwise in further-

1 ance of the purposes of this Act or the securities
2 laws, censure or impose limitations upon the activi-
3 ties, functions, and operations of the Board, if the
4 Commission finds, on the record, after notice and
5 opportunity for a hearing, that the Board—

6 (A) has violated or is unable to comply
7 with any provision of this Act, the securities
8 laws, or the rules of the Board; or

9 (B) without reasonable justification or ex-
10 cuse, has failed to enforce compliance with any
11 such provision or rule, or any professional
12 standard by a registered public accounting firm
13 or an associated person thereof.

14 (3) CENSURE OF BOARD MEMBERS; REMOVAL
15 FROM OFFICE.—If the Commission determines that
16 an activity is necessary or appropriate in the public
17 interest, for the protection of investors, or otherwise
18 in furtherance of the purposes of this Act or the se-
19 curities laws, the Commission may remove from of-
20 fice or censure any member of the Board, if the
21 Commission finds, on the record after notice and op-
22 portunity for a hearing, that such member—

23 (A) has willfully violated any provision of
24 this Act, the securities laws, or the rules of the
25 Board;

1 (B) has willfully abused the authority of
2 that member; or

3 (C) without reasonable justification or ex-
4 cuse, has failed to enforce compliance with any
5 such provision or rule, or any professional
6 standard by any registered public accounting
7 firm or any associated person thereof.

8 **TITLE II—AUDITOR STANDARDS**

9 **SEC. 201. REGISTRATION OF PUBLIC ACCOUNTING FIRMS.**

10 (a) MANDATORY REGISTRATION WITH THE
11 BOARD.—Beginning 1 year after the date of the designa-
12 tion of the Board under section 101, it shall be unlawful
13 for any person to prepare or furnish, an audit report with
14 respect to any issuer, unless that person—

15 (1) is a registered public accounting firm;

16 (2) is in compliance with this Act and all appli-
17 cable rules of the Board and the Commission; and

18 (3) has paid all applicable registration and an-
19 nual fees under this title.

20 (b) APPLICATION FOR REGISTRATION.—A public ac-
21 counting firm may become registered under this title upon
22 application to the Board, in such form and containing
23 such information as the Board, by rule, may prescribe.

1 (c) CONTENTS OF APPLICATIONS.—Each application
2 by a public accounting firm for registration under this title
3 shall include—

4 (1) the names of all of the issuers for which the
5 firm prepares or furnishes audit reports;

6 (2) for each such issuer, the annual fees re-
7 ceived by the firm from that issuer relating to—

8 (A) performance of any annual audit or
9 quarterly interim review of the financial state-
10 ments of the issuer to be filed in an audit re-
11 port with the Commission under the securities
12 laws;

13 (B) other accounting and audit services;

14 (C) tax services;

15 (D) information technology consulting
16 services; and

17 (E) all other consulting or advisory serv-
18 ices, in such detail as the rules of the Board
19 shall specify;

20 (3) financial information of the firm for the
21 most recent fiscal year, including the total annual
22 revenues, assets, liabilities, and net equity of the
23 firm, and the aggregate revenues from each of the
24 accounting, auditing, tax, and other professional
25 services provided to any issuer;

1 (4) the names of any liability insurance carrier
2 of the firm;

3 (5) a copy of the policies and procedures of the
4 firm with respect to quality control of its accounting
5 and auditing practices;

6 (6) a list of all persons associated with the firm,
7 the license or certification number of each such per-
8 son issued by the appropriate State regulatory au-
9 thority, and a brief statement of the education and
10 experience of each such person;

11 (7) information relating to criminal, civil, or ad-
12 ministrative actions or disciplinary proceedings
13 pending against the firm or any associated person of
14 the firm in connection with any audit report fur-
15 nished by the firm;

16 (8) a list of issuers for which the firm has been
17 appointed as a successor auditor in the most re-
18 cently completed fiscal year, and where unresolved
19 disagreements exist between the successor and pred-
20 ecessor auditor on the application of generally ac-
21 cepted accounting principles, including a detailed de-
22 scription of the nature of any such disagreement;
23 and

24 (9) such other information as the rules of the
25 Board or the Commission shall specify as necessary

1 or appropriate in the public interest or for the pro-
2 tection of investors.

3 (d) APPROVAL OR DENIAL OF APPLICATIONS.—The
4 Board shall approve or deny a completed application for
5 registration under this section, not later than 60 days
6 after the date of receipt of the application, or such longer
7 time as the Board may require, in accordance with the
8 rules of the Board.

9 (e) REGISTRATION AND ANNUAL FEES.—

10 (1) IN GENERAL.—The Board shall assess and
11 collect a registration fee and annual dues from each
12 registered public accounting firm, subject to annual
13 review and approval by the Commission.

14 (2) AMOUNTS.—

15 (A) IN GENERAL.—Fees and dues under
16 paragraph (1) shall be assessed at a level suffi-
17 cient to recover the costs and expenses of the
18 Board and to permit the Board to operate on
19 a self-funding basis.

20 (B) BASIS OF FEES.—The amount of fees
21 and dues for each registered public accounting
22 firm shall be based upon—

23 (i) the annual revenues of that firm
24 from accounting, auditing, and other pro-
25 fessional services provided to issuers for

1 the purpose of preparing or furnishing any
2 audit report;

3 (ii) the number of persons associated
4 with the firm that prepare, assist, or other-
5 wise participate in the preparation of audit
6 reports;

7 (iii) the number of issuers for which
8 the firm prepares or furnishes any audit
9 report; and

10 (iv) such other criteria as the rules of
11 the Board may establish.

12 (f) SPECIAL FEES.—The Board may prescribe and
13 collect fees that fairly reflect the costs to the Board of
14 conducting inspections and disciplinary actions in accord-
15 ance with this Act, in addition to other fees authorized
16 by this section.

17 (g) PERIODIC REPORTS.—

18 (1) ANNUAL REPORTS.—Each registered public
19 accounting firm shall submit an annual report to the
20 Board—

21 (A) to update the information contained in
22 its application for registration under this sec-
23 tion; and

1 (B) to provide to the Board any additional
2 information that the Board may require, in ac-
3 cordance with the rules of the Board.

4 (2) UPDATES.—Not later than 15 days after an
5 event that affects any information referred to in
6 paragraph (7) or (8) of subsection (c), or more fre-
7 quently as the Board may require, each registered
8 public accounting firm shall provide to the Board
9 any relevant information with respect to such mat-
10 ters.

11 (3) PUBLIC AVAILABILITY.—Annual reports re-
12 quired by this subsection, or parts thereof, as des-
13 ignated by the rules of the Board or the Commis-
14 sion, shall be made available for public inspection.

15 (h) COMMISSION EXEMPTION AUTHORITY.—The
16 Commission, by rule or order, upon its own motion or
17 upon application, may conditionally or unconditionally ex-
18 empt any public accounting firm or any audit report, or
19 any class of public accounting firms or any class of audit
20 reports, from any provision of this Act, if the Commission
21 finds that such exemption is consistent with the public in-
22 terest, the protection of investors, and the purposes of this
23 Act.

1 **SEC. 202. AUDITOR INDEPENDENCE.**

2 (a) IN GENERAL.—It shall be unlawful for any reg-
3 istered public accounting firm or any associated person of
4 a registered public accounting firm to prepare, or con-
5 tribute to the preparation of, any audit report with respect
6 to any issuer—

7 (1) if the chief executive officer, chief financial
8 officer, controller, or principal accounting officer of
9 the issuer, or any person acting in an equivalent po-
10 sition for the issuer, was an associated person of the
11 registered public accounting firm—

12 (A) at any time after the date of enact-
13 ment of this Act, effective during the 3-year pe-
14 riod beginning on the date of enactment of this
15 Act; or

16 (B) at any time during the 3-year period
17 preceding the provision of any such audit serv-
18 ices, effective beginning 3 years after the date
19 of enactment of this Act;

20 (2) effective 1 year after the date of enactment
21 of this Act (and during that 1-year period, in any
22 case in which the Commission finds that the inde-
23 pendence of a registered public accounting firm
24 would otherwise be jeopardized), if the non-audit
25 services provided to that issuer by the registered
26 public accounting firm were not approved in writing

1 by the audit committee of the issuer, based on a de-
2 termination that such non-audit services were in the
3 best interest of investors, and after disclosure by the
4 issuer of that determination to the shareholders of
5 the issuer in each report required to be made by the
6 issuer to such shareholders;

7 (3) effective 5 years after the date of enactment
8 of this Act, during more than 5 consecutive calendar
9 years—

10 (A) unless the Board, upon review at the
11 end of each such 5-year period of the audit re-
12 ports prepared for that issuer by the registered
13 public accounting firm or associated person
14 (pursuant to the rules of the Board), approves
15 continuation of services for that issuer by the
16 firm or associated person; or

17 (B) if, at the end of each such 5-year pe-
18 riod, there is pending, or during such 5-year pe-
19 riod there became final, any sanction by the
20 Commission with respect to the registered pub-
21 lic accounting firm or associated person;

22 (4) effective on and after the date of enactment
23 of this Act, if the registered public accounting
24 firm—

1 (A) advises or consults with an issuer or
2 an intermediary in the design or structuring of
3 a specific transaction that is accounted for in
4 the audited or reviewed financial statements of
5 the issuer;

6 (B) provides to the issuer or an inter-
7 mediary a report on the application of generally
8 accepted accounting principles to a transaction
9 described in subparagraph (A); and

10 (C) prepares or furnishes any audit report
11 or opinion or review of the financial statements
12 of the issuer that include such transaction; or

13 (5) if the public accounting firm does not report
14 directly to the audit committee of the issuer or di-
15 rectly to the board of directors of the issuer with re-
16 spect to any audit services commenced on or after
17 the date of enactment of this Act.

18 (b) BOARD RULES AND ENFORCEMENT.—

19 (1) DOCUMENT RETENTION; CONCURRENT RE-
20 VIEW.—The rules of the Board shall require each
21 registered public accounting firm—

22 (A) to prepare and maintain for a period
23 of not less than 7 years, audit work papers and
24 other information related to any audit report, in

1 sufficient detail to support the conclusions
2 reached in the audit report;

3 (B) to provide a concurring or second part-
4 ner review of such audit workpapers and other
5 related information by a qualified person (as
6 prescribed by the Board) associated with the
7 registered public accounting firm, other than
8 the person in charge of the audit, or by an
9 independent reviewer (as prescribed by the
10 Board); and

11 (C) to secure the concurring approval of
12 such qualified person or independent reviewer
13 as a necessary prerequisite to the issuance of
14 any audit report.

15 (2) INDEPENDENCE POLICIES AND PROCE-
16 DURES.—The rules of the Board with respect to
17 auditor independence for registered public account-
18 ing firms shall include, among such other require-
19 ments as the Board may prescribe, policies and pro-
20 cedures for—

21 (A) monitoring by each such firm of its
22 professional ethics, including the independence
23 of the firm from the issuers for which the firm
24 prepares or furnishes any audit report;

1 (B) the assignment of personnel to audit
2 engagements;

3 (C) consultation within the firm or with
4 other accountants on accounting and auditing
5 questions;

6 (D) the supervision of audit work;

7 (E) the hiring, professional development,
8 and advancement of personnel;

9 (F) the acceptance and continuation of
10 issuers as clients; and

11 (G) internal inspection of the compliance
12 of the firm with such policies and procedures.

13 (3) EXEMPTION AUTHORITY.—The rules of the
14 Board shall provide for—

15 (A) the implementation of the require-
16 ments of this section with respect to registered
17 public accounting firms and associated persons
18 thereof; and

19 (B) the exemption of services by a reg-
20 istered public accounting firm from the require-
21 ments of this section, if the Board determines
22 that the exemption is in the best interests of in-
23 vestors and will improve the quality of financial
24 reporting and the independence of audits under
25 the securities laws.

1 (4) ENFORCEMENT.—The rules of the Board
2 shall establish disciplinary procedures applicable to
3 any registered public accounting firm or associated
4 person thereof in accordance with section 203, for
5 violation of any provision of this Act, the securities
6 laws, the rules of the Board or the Commission, or
7 professional standards.

8 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion or the rules of the Board shall be construed to pro-
10 hibit a registered public accounting firm that issues an
11 audit report to an issuer from providing an opinion to that
12 issuer regarding the application of generally accepted ac-
13 counting principles to, or the design and structure of, a
14 specific transaction on which the registered public ac-
15 counting firm has not otherwise advised or consulted with
16 the issuer.

17 (d) COMMISSION RULEMAKING.—The Commission
18 shall promulgate such rules and regulations relating to the
19 independence of registered public accounting firms, con-
20 sistent with this title, as may be necessary or appropriate
21 in the public interest or for the protection of investors.

22 **SEC. 203. INVESTIGATIONS AND DISCIPLINARY PRO-**
23 **CEEDINGS.**

24 (a) INVESTIGATIONS AND DISCIPLINARY PRO-
25 CEEDINGS.—The rules of the Board shall establish fair

1 procedures for investigating and disciplining registered
2 public accounting firms and associated persons thereof for
3 violations of this Act, the securities laws, the rules of the
4 Board or the Commission, or professional standards.

5 (b) INVESTIGATION PROCEDURES.—

6 (1) AUTHORITY.—In accordance with the rules
7 of the Board, the Board may conduct an investiga-
8 tion of any act or practice, or omission to act, by a
9 registered public accounting firm, or by any associ-
10 ated person of a registered public accounting firm,
11 that may violate any provision of this Act, the secu-
12 rities laws, the rules of the Board or the Commis-
13 sion, or professional standards, regardless of how
14 the act, practice, or omission is brought to the atten-
15 tion of the Board. At the discretion of the Board,
16 such an investigation, in light of the circumstances,
17 may relate to the entire registered public accounting
18 firm, to 1 or more persons associated with the firm,
19 or to 1 or more offices, engagements, or transactions
20 of the firm.

21 (2) COMPULSION OF TESTIMONY AND DOCU-
22 MENT PRODUCTION.—For purposes of an investiga-
23 tion under this section, and in addition to such other
24 actions as the Board determines to be necessary or
25 appropriate, the rules of the Board may—

1 (A) require the testimony of any person as-
2 sociated with a registered public accounting
3 firm, with respect to any matter that the Board
4 considers relevant or material to the investiga-
5 tion;

6 (B) require the production of audit
7 workpapers and of any other document or infor-
8 mation in the possession of a registered public
9 accounting firm or any associated person there-
10 of, wherever domiciled, that the Board con-
11 siders relevant or material to the investigation,
12 and may examine the books and records of such
13 firm or associated person to verify the accuracy
14 of any documents or information supplied; and

15 (C) require the testimony of, and produc-
16 tion of any document in the possession of, any
17 person, including any issuer client of a reg-
18 istered public accounting firm, that the Board
19 considers relevant or material to an investiga-
20 tion under this section.

21 (3) PENALTIES FOR NONCOMPLIANCE WITH IN-
22 VESTIGATION.—

23 (A) IN GENERAL.—Any person who fails to
24 comply with the requirements of this section
25 shall be subject to the same sanctions as are

1 applicable for any failure to produce informa-
2 tion or testimony to the Commission in the
3 course of a formal investigation.

4 (B) REFUSAL TO COOPERATE.—If a reg-
5 istered public accounting firm or any associated
6 person thereof refuses to testify, produce docu-
7 ments, or otherwise cooperate with the Board in
8 connection with an investigation under this sec-
9 tion, the Board may—

10 (i) suspend or bar such person from
11 being associated with an issuer or a reg-
12 istered public accounting firm;

13 (ii) suspend or revoke the registration
14 of the public accounting firm; and

15 (iii) invoke such other sanctions as
16 the Board considers appropriate.

17 (4) REFERRALS.—The Board may refer any in-
18 vestigation to the Commission, the Attorney General
19 of the United States, and the appropriate State reg-
20 ulatory authority for appropriate referral, investiga-
21 tion, and action, as the Board determines appro-
22 priate.

23 (5) USE OF DOCUMENTS.—

24 (A) CONFIDENTIALITY.—Except as pro-
25 vided in subparagraph (B), all reports, memo-

1 randa, and other information prepared or re-
2 ceived by, and deliberations of the Board and
3 its employees and agents in connection with an
4 investigation under this section, shall be con-
5 fidential and privileged, unless and until pre-
6 sented in connection with a public proceeding or
7 the public release by the Board of its report of
8 sanctions under subsection (d).

9 (B) AVAILABILITY TO GOVERNMENT AGEN-
10 CIES.—All information referred to in subpara-
11 graph (A) shall be—

12 (i) made available to the Commission,
13 the Attorney General of the United States,
14 and any other Federal department or
15 agency, to any appropriate State regu-
16 latory authority (which shall maintain such
17 information as confidential and privileged,
18 subject to otherwise applicable law), and to
19 Federal and State authorities in connection
20 with any criminal investigation or pro-
21 ceeding;

22 (ii) admissible in any action brought
23 by the Commission, the Attorney General
24 of the United States, or any other Federal
25 department or agency, or by any appro-

1 appropriate State regulatory authority, and in
2 any criminal action; and

3 (iii) made available to Congress, upon
4 request, subject to otherwise applicable
5 law.

6 (6) GOVERNMENT IMMUNITY.—Any employee of
7 the Board engaged in carrying out an investigation
8 under this Act shall be immune from any civil liabil-
9 ity arising out of such investigation in the same
10 manner and to the same extent as an employee of
11 the Federal Government in similar circumstances.

12 (c) DISCIPLINARY PROCEDURES.—

13 (1) NOTIFICATION; RECORDKEEPING.—The
14 rules of the Board shall provide that in any pro-
15 ceeding by the Board to determine whether a reg-
16 istered public accounting firm or an associated per-
17 son thereof, should be disciplined, the Board shall—

18 (A) bring specific charges with respect to
19 the firm or associated person;

20 (B) notify such firm or associated person
21 of, and provide to the firm or associated person
22 an opportunity to defend against, such charges;
23 and

24 (C) keep a record of the proceedings.

1 (2) PUBLIC HEARINGS.—All hearings under
2 this section shall be public, unless otherwise ordered
3 by the Board on its own motion or after considering
4 the motion of a party.

5 (3) SANCTIONS.—If the Board finds that a reg-
6 istered public accounting firm, or a person associ-
7 ated with a registered public accounting firm, has
8 engaged in any act or practice, or omitted to act, in
9 violation of this Act, the securities laws, the rules of
10 the Board or the Commission, or professional stand-
11 ards, the Board may impose such disciplinary or re-
12 medial sanctions as it determines appropriate,
13 including—

14 (A) temporary or permanent revocation or
15 suspension of registration under this title with
16 the Board;

17 (B) temporary or permanent limitation of
18 activities, functions, or operations;

19 (C) civil money penalties;

20 (D) censure;

21 (E) in the case of an associated person of
22 a registered public accounting firm, temporary
23 or permanent suspension or bar from being as-
24 sociated with any registered public accounting
25 firm; and

1 (ii) \$15,000,000 for any person other
2 than a natural person.

3 (5) SUPPORTING STATEMENT.—A determina-
4 tion by the Board to impose a disciplinary or reme-
5 dial sanction or penalty under this section shall be
6 supported by a statement setting forth—

7 (A) any prohibited act or practice in which
8 the registered public accounting firm, or associ-
9 ated person of such firm, has engaged, or any
10 required act or practice which such firm or per-
11 son has omitted;

12 (B) the specific provision of this Act, the
13 securities laws, the rules of the Board or the
14 Commission, or professional standards which
15 the Board determines has been violated; and

16 (C) the sanction imposed, including a jus-
17 tification for that sanction.

18 (6) EFFECT OF SUSPENSION.—

19 (A) ASSOCIATION WITH A PUBLIC AC-
20 COUNTING FIRM.—

21 (i) SUSPENDED OR BARRED PER-
22 SONS.—It shall be unlawful for any person
23 that is suspended or barred from being as-
24 sociated with a registered public account-
25 ing firm in accordance with this section

1 willfully to become or remain associated
2 with a registered public accounting firm
3 without the consent of the Board or the
4 Commission.

5 (ii) REGISTERED PUBLIC ACCOUNTING
6 FIRMS.—It shall be unlawful for any reg-
7 istered public accounting firm to permit a
8 person that is suspended or barred from
9 being associated with any such firm in ac-
10 cordance with this section to become or re-
11 main associated with that firm without the
12 consent of the Board or the Commission, if
13 the firm knew, or, in the exercise of rea-
14 sonable care should have known, of the
15 suspension or bar.

16 (B) ASSOCIATION WITH AN ISSUER.—

17 (i) SUSPENDED OR BARRED PER-
18 SONS.—It shall be unlawful for any person
19 that is suspended or barred from being as-
20 sociated with an issuer in accordance with
21 this section willfully to become or remain
22 associated with such an issuer without the
23 consent of the Board or the Commission.

24 (ii) ISSUERS.—It shall be unlawful for
25 any issuer to permit any person that is

1 suspended or barred from being associated
2 with an issuer in accordance with this sec-
3 tion to become or remain an associated
4 person of that issuer without the consent
5 of the Board or the Commission, if the
6 issuer knew, or, in the exercise of reason-
7 able care should have known, of the sus-
8 pension or bar.

9 (d) REPORTING OF SANCTIONS.—

10 (1) RECIPIENTS.—Whenever the Board imposes
11 a disciplinary sanction or penalty against a reg-
12 istered public accounting firm, an associated person
13 of a registered public accounting firm, or any other
14 person in accordance with this section, the Board
15 shall report the sanction to—

16 (A) the Commission;

17 (B) any appropriate State regulatory au-
18 thority or foreign licensing board having similar
19 authority with which such firm or person is li-
20 censed or certified to practice public accounting
21 for appropriate referral, investigation, and ac-
22 tion;

23 (C) the Attorney General of the United
24 States for appropriate referral, investigation,
25 and action; and

1 (D) the public.

2 (2) CONTENTS.—The information required to
3 be reported under paragraph (1) shall include—

4 (A) the name of the registered public ac-
5 counting firm or other person against whom the
6 sanction or penalty is imposed;

7 (B) a description of the acts or practices,
8 or omissions to act, upon which the sanction or
9 penalty is based;

10 (C) the nature of the sanction; and

11 (D) such other information respecting the
12 circumstances of the disciplinary sanction or
13 penalty as the Board determines appropriate.

14 **SEC. 204. FOREIGN PUBLIC ACCOUNTING FIRMS.**

15 (a) IN GENERAL.—Any foreign public accounting
16 firm that prepares or furnishes, or assists or otherwise
17 participates in the preparation of, an audit report with
18 respect to any issuer, shall be subject to this Act, the rules
19 and regulations of the Commission, and the rules of the
20 Board issued in accordance with this Act, in the same
21 manner and to the same extent as a public accounting firm
22 that is organized and operates under the laws of the
23 United States or any State.

24 (b) AUTHORITY TO EXEMPT OR ADD QUALIFICA-
25 TIONS.—The Commission, and the Board, subject to the

1 approval of the Commission, may, by rule, regulation, or
2 order, and as the Commission (or Board) determines nec-
3 essary or appropriate in the public interest or for the pro-
4 tection of investors, either unconditionally or upon speci-
5 fied terms and conditions—

6 (1) exempt any foreign public accounting firm,
7 or any class of such firms, from any provision of this
8 Act, the rules and regulations of the Commission,
9 and the rules of the Board issued in accordance with
10 this Act; and

11 (2) impose requirements or qualifications in ad-
12 dition to those required by this Act and such rules
13 or regulations on any foreign public accounting firm,
14 or any class of such firms, to ensure that such firm
15 possesses adequate knowledge of professional stand-
16 ards in the United States, and that such firm has
17 adequate policies and procedures in place to assure
18 compliance with those professional standards.

19 (c) **AUTHORITY TO CONSULT.**—The Board may, as
20 the Board determines necessary, consult, liaison, and meet
21 with accounting professionals and regulators in other
22 countries for purposes of this section.

23 (d) **DEFINITION.**—In this section, the term “foreign
24 public accounting firm” means a public accounting firm

1 that is organized and operates under the laws of a foreign
2 government or political subdivision thereof.

3 **SEC. 205. CERTIFICATION REQUIRED.**

4 Section 13 of the Securities Exchange Act of 1934
5 (15 U.S.C. 78m) is amended by adding at the end the
6 following new subsection:

7 “(i) CERTIFICATION OF FINANCIAL STATEMENTS BY
8 CORPORATE OFFICERS.—Each annual or periodic finan-
9 cial report filed under this title and transmitted to share-
10 holders shall include, in accordance with such rules as the
11 Commission may prescribe, a certified statement ad-
12 dressed to the shareholders of the issuer and signed by
13 the chief executive officer and chief financial officer of the
14 issuer, that attests that—

15 “(1) the financial statements contained in the
16 report (including the balance sheet, income state-
17 ment, cash flow statement, and accompanying foot-
18 note disclosures) have been prepared by management
19 of the issuer;

20 “(2) by signing the report, the officers believe
21 and affirm that the financial statements are fairly
22 presented, and are presented in plain language, in a
23 manner designed to give shareholders a complete un-
24 derstanding of the financial condition, results of op-

1 erations, and cash flow of the issuer, with full and
2 fair disclosure and transparency; and

3 “(3) the signing officers believe and affirm—

4 “(A) their responsibility for establishing
5 and maintaining an adequate internal control
6 structure and procedures for financial report-
7 ing; and

8 “(B) the assessment of the signing offi-
9 cers, for the most recent fiscal year of the
10 issuer, of the effectiveness of such internal con-
11 trol structure and procedures.”.

12 **SEC. 206. COMMISSION RULES AND ENFORCEMENT.**

13 (a) REGULATORY ACTION.—The Commission shall
14 promulgate such rules and regulations relating to the inde-
15 pendence of registered public accounting firms and associ-
16 ated persons thereof, consistent with this title, as may be
17 necessary or appropriate in the public interest or for the
18 protection of investors.

19 (b) ENFORCEMENT.—A violation by any person of
20 this title, any rule or regulation of the Commission issued
21 under this title, or any rule of the Board shall be treated
22 for all purposes in the same manner as a violation of the
23 Securities Exchange Act of 1934, or the rules and regula-
24 tions issued thereunder, and any such person shall be sub-

1 ject to the same penalties, and to the same extent as for
2 a violation of that Act or such rules or regulations.

3 (c) EFFECT ON COMMISSION AUTHORITY.—Nothing
4 in this Act or the rules of the Board shall be construed
5 to impair or limit—

6 (1) the authority of the Commission to regulate
7 the accounting profession, accounting firms, or per-
8 sons associated with such firms for purposes of en-
9 forcement of the securities laws;

10 (2) the authority of the Commission to set
11 standards for accounting or auditing practices or
12 auditor independence derived from other provisions
13 of the securities laws or the rules or regulations
14 issued thereunder, for purposes of the preparation
15 and issuance of any auditor report, or otherwise
16 under applicable law; or

17 (3) the ability of the Commission to take, on
18 the initiative of the Commission, legal, administra-
19 tive, or disciplinary action against any registered
20 public accounting firm or any associated person
21 thereof.

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