SEC VOTES TO POSTPONE COMPLIANCE WITH SARBANES-OXLEY FILING REQUIREMENTS FOR SMALLER COMPANIES

On September 21, 2005, the SEC extended the compliance date for internal control reporting required by Section 404 of the Sarbanes-Oxley Act ("SOX") for publicly traded companies with less than $75 million in market capitalization until the company's first fiscal year ending on or after July 15, 2007.

SOX, passed in the wake of the Enron, WorldCom, and Tyco scandals put into effect financial checks and balances which, among other things, require public companies and their auditors to report on the effectiveness the company's internal controls. Section 404 of SOX requires that the annual report of publicly traded companies contain an internal control report to: "1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and 2) contain an assessment, as of the end of the most recent fiscal year of the issuer, of the effectiveness of the internal control structure and procedures of the issuer for financial reporting." In addition, each public accounting firm that prepares an audit report for a covered publicly traded company "shall attest to, and report on, the assessment made by the management" of the company. According to Christopher Cox, Chairman of the Securities and Exchange Commission ("SEC"), the requirements of Section 404 "have posed the single biggest challenge to companies under the [SOX] and have imposed the greatest costs."

This is the second time the SEC has extended the deadline for smaller public companies. The extension provides the opportunity for the SEC to consider input from an advisory committee it created in 2004 to examine the impact of Section 404 on smaller publicly traded companies.

IIABA's Federal Government Affairs Department, with input from the Office of the General Counsel, lobbied the SEC on this issue to get the extension granted. We will continue to monitor and weigh in on significant developments relative to this issue as they arise.

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