

## Has the Purpose of Sarbanes Oxley Been Forgotten?

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### The SEC Decision to Extend Non-Accelerated Filers

Mr. Basilo feels the small cap investor is not getting the support from the government large cap investors receive and points out that SOX was initiated to instill investor confidence back into the market—something he feels has been apparently forgotten.

Since the economy is fueled by small and mid-sized firms, low confidence in this segment and a lack of investment could cause ripples in the economy too: "Companies need to resign themselves to the fact that Sarbanes-Oxley, as a concept, is here to stay! I believe that compliance with Sarbanes-Oxley should be done for all companies that accept invested capital, not just public companies and certainly not just large market capitalization companies. Risks are not discriminatory and can impact companies regardless of size or industry.

There has been a great deal of focus on cost, but much of the cost associated with compliance with Sarbanes-Oxley is due to companies not having an updated documented system of internal control in place, a compliance requirement that certainly preceded Sarbanes-Oxley.

"In my opinion, companies became lax in keeping the documentation updated when the auditors moved to a risk-based audit approach that did not rely on controls. Now companies are scrambling to get their controls documented. Even though the risk of smaller public companies is minimal in terms of the capital markets (per the SEC), it certainly is not minimal to the individual investor who fuels the growth of these companies through invested capital. They should have the same comfort level as large company investors.

Our economy is dependent on small and middle market companies for employment and growth. If the investment community loses confidence in the ability of these small cap companies to maintain an effective system of internal control to deter fraud, how will the economy grow?

Wasn't the need to regain investor confidence the reason for Sarbanes-Oxley in the first place? I think we should all remember that fact."

There's also sound business policy being ignored by delaying SOX that is offered in an excerpt below from remarks Mr. Basilo made earlier this week at the New Jersey Technology Council:

"We believe that instead of thinking of SOX as just a regulatory requirement, whose guidelines need to be met to fulfill compliance measures, it should be seen as a vehicle that drives a strong foundation for success and it should be done now.

"Why now? To start, it's far more cost-effective to engage SOX now and lock in current rates. The limited resources available to assist may not be available later and the cost of remediation will substantially increase as the deadline nears. In addition, companies planning an IPO will need to comply with numerous rules as soon as the registration is filed and public companies looking to acquire expect SOX standards to be met. Private Equity/Venture Capital firms as well as banks and insurance companies are also increasingly requiring SOX compliance to do business. Finally, SOX compliance establishes a strong infrastructure and increases an organization's ability to outperform rivals and enhance the bottom line—both financially and in products/services delivered."

Mr. Basilo commented after the decision yesterday that he found it disappointing because these internal control requirements are based in procedures companies should have in place regardless of SOX and wondered what businesses have been doing for three years. Basilo suggested that much of talk about the costs of SOX is misleading. If a business is absorbing extravagant costs to meet SOX guidelines, it is more a reflection of the lack of current internal controls at all and not a true representation of the cost of SOX. The more internal controls and procedures a company has already in place would decrease costs and increase the speed to which compliance standards could be met.

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