

Contents at a Glance

<i>Introduction</i>	1
<i>Part I: The Scene Before and After SOX</i>	7
Chapter 1: The SOX Saga	9
Chapter 2: SOX in Sixty Seconds	27
Chapter 3: SOX and Securities Regulations	43
Chapter 4: SOX and Factual Financial Statements	67
Chapter 5: What's New for Non-Accelerated Filers	83
<i>Part II: SOX in the City: Meeting New Standards</i>	89
Chapter 6: A New Audit Ambience	91
Chapter 7: A Board to Audit the Auditors	105
Chapter 8: The Almighty Audit Committee	119
Chapter 9: Building Boards That Can't Be Bought	131
Chapter 10: SOX: Under New Management	143
Chapter 11: More Management Mandates	159
<i>Part III: Scaling Down Section 404</i>	169
Chapter 12: Clearing Up Confusion about Control	171
Chapter 13: Surviving a Section 404 Audit	183
Chapter 14: Taking the Terror Out of Testing	191
<i>Part IV: SOX for Techies</i>	207
Chapter 15: Getting Technical with SOX	209
Chapter 16: Surveying SOX Software	219
Chapter 17: Working with Some Actual SOX Software	233
<i>Part V: To SOX-finity and Beyond</i>	249
Chapter 18: Lawsuits under SOX	251
Chapter 19: The Surprising Scope of SOX	267
<i>Part VI: The Part of Tens</i>	273
Chapter 20: Ten Ways to Avoid Getting Sued or Criminally Prosecuted Under SOX	275
Chapter 21: Ten Tips for an Effective Audit Committee	281

Chapter 22: Ten Smart Management Moves	289
Chapter 23: Ten Things You Can't Ask an Auditor to Do After SOX.....	295
Chapter 24: Top Ten Places to Get Smart about SOX	301
<i>Part VII: Appendixes</i>	307
Appendix A: Selected Sections, Auditing Standard No. 5.....	309
Appendix B: Sample Certifications.....	313
Appendix C: Sample Audit Committee Charter	319
Appendix D: Sample Code of Ethics.....	329
Appendix E: Sample SAS 70 Report.....	337
<i>Index</i>	339

Table of Contents

<i>Introduction</i>	1
About This Book.....	1
Conventions Used in This Book	2
What You're Not to Read.....	2
Foolish Assumptions	3
How This Book Is Organized.....	3
Part I: The Scene Before and After SOX.....	4
Part II: SOX in the City: Meeting New Standards	4
Part III: Scaling Down Section 404	4
Part IV: SOX for Techies.....	4
Part V: To SOX-finity and Beyond.....	4
Part VI: The Part of Tens	5
Part VII: Appendixes.....	5
Icons Used in This Book.....	5
Where to Go from Here.....	6
Feedback, Please	6

Part I: The Scene Before and After SOX..... **7**

Chapter 1: The SOX Saga	9
Plowing Through the Politics of SOX.....	10
Taking advantage of a loophole.....	10
Not everyone's a SOX fan	11
New ammunition for aggrieved investors	13
Corporate America after SOX	13
Combating Corruption under SOX: Everyone Has a Role	14
Assisting with internal control: The independent audit board	14
Testing the accounting data: Auditors	15
Using the new noisy liability: Lawyers	16
Certifying financial reports: CEOs and CFOs	17
Staying clean voluntarily: Small businesses and nonprofits.....	17
Adhering to procedures: The rank-and-file employees	18
Overseeing corporate policy: New high-paid governance gurus	18
A Summary of SOX: Taking It One Title at a Time.....	18
Title I: Aiming at the audit profession	18
Title II: Ensuring auditor independence	20
Title III: Requiring corporate accountability.....	20
Title IV: Establishing financial disclosures, loans, and ethics codes	21
Title V: Protecting analyst integrity	22
Title VI: Doling out more money and authority.....	22
Title VII: Supporting studies and reports	22

Title VIII: Addressing criminal fraud and whistle-blower provisions	23
Title IX: Setting penalties for white-collar crime	23
Title X: Signing corporate tax returns.....	24
Title XI: Enforcing payment freezes, blacklists, and prison terms.....	24
Some Things SOX Doesn't Say: SOX Myths.....	24
Myth #1: SOX put Jeff Skilling (and other Enron execs) in jail	24
Myth #2: Auditors can't provide tax services.....	25
Myth #3: Internal control means data security	25
Myth #4: The company isn't responsible for functions it outsources.....	26
Myth #5: My company met the deadline for Section 404 first-year compliance. We're home free!	26
Chapter 2: SOX in Sixty Seconds	27
Reestablishing Control after the Scandals.....	28
Enron events everyone initially overlooked.....	28
More tales from the corporate tabloids	32
Four Squeaky Clean SOX Objectives.....	33
How SOX Protects the Investing Public	35
Creating a Public Company Accounting Oversight Board	35
Clamping down on auditors	36
Rotating auditors.....	37
Creating committees inside companies	37
Holding management accountable.....	38
Taking back bogus bonuses	38
Banning blackouts	38
Ratcheting up reporting	39
Purging company conflicts of interest.....	39
Exercising internal control.....	40
Looking at lawyers	40
Waiting seven years to shred.....	41
Putting bad management behind bars	41
Freezing bonuses.....	41
Blackballing officers and directors	41
Providing whistle-blower protection	42
Rapid Rulemaking Regrets	42
Chapter 3: SOX and Securities Regulations	43
Pre-SOX Securities Laws.....	44
The Securities Act of 1933: Arming investors with information.....	45
The Securities Exchange Act of 1934: Establishing the SEC	46
Other securities laws	49

The Scope of SOX: Securities and Issuers.....	49
What is a “security”?.....	50
Who is an “issuer”?.....	51
The SOX surprise.....	52
The Post-SOX Paper Trail.....	54
Form 10-K.....	55
Form 10-Q.....	55
Form 8-K.....	56
Behind the 8-K Ball after SOX.....	56
Adding new events to the list.....	56
Shuffling events from the 10-K and 10-Q.....	57
Creating four-day reporting events.....	58
Providing protection in the safe SOX harbor.....	58
Annual SEC Scrutiny after SOX.....	59
Mandatory review rule.....	59
Remedies for inaccurate registration materials.....	60
Why Privately Held Companies Care about SOX.....	60
Bolstering the bottom line.....	60
Defending company practices in court.....	62
Going public after SOX.....	62

Chapter 4: SOX and Factual Financial Statements 67

Auditing the Auditors: 2007 Guidance from the SEC.....	68
SOX’s Recipe for Seeking Out Cooked Books.....	69
Reviewing what the income statement reveals.....	70
Examining balance sheet (and off–balance sheet) transactions.....	72
Looking for funky footnotes.....	73
Complying with GAAP and GAAS.....	73
Finding Financial Information.....	75
The free stuff.....	75
The fee-based stuff.....	76
Accessing Annual Reports.....	77
The glossy pictures and the real figures.....	77
Management’s Discussion and Analysis.....	79
Surfing SEC Filings.....	79
10-K reports.....	79
Other useful forms on EDGAR.....	80

Chapter 5: What’s New for Non-Accelerated Filers 83

A SOX Update for Small Companies.....	83
No relief for non-accelerated filers.....	84
Looking at what the rules require.....	84
Getting the Auditor’s Opinion.....	85
A kinder, gentler audit.....	85
Touting a top-down approach.....	86
Tips for adopting a new “audit-tude”.....	86

Part II: SOX in the City: Meeting New Standards 89**Chapter 6: A New Audit Ambience 91**

How SOX Rocks the Accounting Profession	91
An Example of Audit Failure: Arthur Andersen.....	92
Chronology of a collapse.....	92
A vindicating verdict . . . years later	93
Bridging the GAAP.....	94
SOX as a Substitute for Self-Regulation.....	94
Shifting the role of the AICPA.....	95
Whose turn is it to watch the CPA?.....	97
Is There an Independent Auditor in the House?	97
The importance of audit independence	98
Every auditor's dilemma	99
What SOX Says to CPAs.....	99
Give the whole team a cooling-off period.....	100
Prohibit services that cause conflicts	100
Get prior permission for potential conflicts	101
Everybody change partners!.....	102
Wait seven years to shred	102
Recognize when auditors are "impaired"	102
Section 404: The Sin Eater Provision	102
CEOs and CFOs signing off	103
CPAs certifying the certifications.....	103

Chapter 7: A Board to Audit the Auditors 105

Taking a New Approach to Audit Oversight	106
The old ad hoc system of accounting oversight	106
Alphabet soup of accounting regulation	107
Primary Purposes of the PCAOB.....	108
Goals of the PCAOB.....	108
The seven statutory duties of the PCAOB	109
Some Practical PCAOB Matters.....	109
Who's on the board?	110
Who pays for the PCAOB?.....	110
PCAOB Rules: Old Meets New	110
Sticking to the ol' standby rules.....	111
Adjusting to some new rules.....	111
Evolving PCAOB Policies and Issues	113
Sanctioning sloppy auditors	113
Keeping an eye on small CPA firms	113
Extending authority internationally.....	114
Communicating with the SEC.....	114
When the PCAOB Doesn't Perform.....	114
Struggling for Standards.....	115
Adapting to Auditing Standard No. 2	115
Implementing Auditing Standard No. 5.....	116

Chapter 8: The Almighty Audit Committee	119
Deliver or Delist: Rules of the Stock Exchanges.....	119
From the Audit Committee Annals.....	121
Mr. Leavitt's Blue Ribbon panel.....	121
Enron impetus.....	121
The quest for consistent committee rules	121
Starting with a Charter	122
The Audit Committee Interface	122
Some Stricter NYSE Rules	123
Membership Requirements	124
A few independent members	124
Figure in a financial expert.....	125
Day-to-Day Committee Responsibilities	125
Monitoring events and policing policies	126
Interfacing with the auditors	126
Preapproving nonaudit services	127
Handling complaints	128
Receiving CEO and CFO certifications.....	128
Monitoring conflicts and cooling-off periods	129
Ferretting out improper influence	129
Rotating the audit partners.....	129
Engaging advisors	130
Providing recognition in annual reports	130
Chapter 9: Building Boards That Can't Be Bought	131
Some Background about Boards.....	132
What does a director do?	132
Looking at some bad, bad boards	133
In Search of Independent Directors	134
No relationships with related companies	135
Three-year look-back period.....	136
Prohibited payments.....	136
Family ties	136
Mandatory meetings	137
Forming Committees for Nominating Directors.....	137
NYSE nominating procedures	138
NASDAQ nominating rules	138
Regulating Director Compensation.....	138
Making governance guidelines public	139
Evaluating the board's performance.....	139
Some Exempt Boards . . . For the Moment.....	140
Nonpublic companies	140
Nonprofit corporations.....	141
Other exempt companies	141

Chapter 10: SOX: Under New Management	143
Chiefly Responsible: CEOs and CFOs	143
CEO: The chief in charge	144
CFO: The financial fact finder	144
Three SOX sections for the chiefs	145
A Section 302 Certification Checklist.....	146
Paragraph 1: Review of periodic report	147
Paragraph 2: Material accuracy.....	147
Paragraph 3: Fair presentation of financial information	147
Paragraph 4: Disclosure controls and procedures.....	148
Paragraph 5: Disclosure to auditors	148
Paragraph 6: Changes in internal controls	149
Clearing Up Common Section 302 Questions	149
What companies are required to file certifications under Section 302?.....	150
Which reports get certified?	150
Viewing Control as a Criminal Matter: Section 906.....	151
More Reporting Responsibilities for Management and Auditors: Section 404.....	153
What management has to do under Section 404.....	153
What the auditors need from management	153
Taking Internal Control Seriously.....	154
Considering the auditor's perspective	154
What the SEC says	154
Management standards criteria for controls	155
Seeking Out Subcertifications	155
Some Good Advice for CEOs and CFOs	156
Establish a disclosure committee	157
Take an inventory.....	157
Woo the whistle-blowers	157
Chapter 11: More Management Mandates	159
Codifying the Corporate Conscience.....	159
Explaining the code.....	160
Establishing worthwhile objectives	160
Realizing one code doesn't fit all companies.....	160
Disclosing amendments and waivers	161
Expecting ethics on the exchanges.....	161
A checklist of code contents.....	161
New Rules for Stock Selling and Telling	162
Faster disclosure	163
More disclosure	163
Prohibiting Personal Loans.....	164
Banning Blackout Trading.....	164
Avoiding media images of stricken retirees	165
Making some necessary exceptions	165

Making Managers Pay Personally	165
The freeze factor.....	166
The danger of disgorgement	166
Stopping Audit Inference.....	167
Identifying audit interlopers	167
Suing audit interlopers	168
Part III: Scaling Down Section 404	169
Chapter 12: Clearing Up Confusion about Control	171
The Nuts and Bolts of Section 404	171
What Section 404 says	172
What Section 404 really does.....	172
SEC rules under Section 404	173
PCAOB participation in the Section 404 process	173
When Do Companies Have to Comply with Section 404?	174
Section 302 “Internal Control” versus Section 404 “Internal Control”	175
Defining “disclosure controls and procedures”	
under Section 302	175
Interpreting “internal control over financial reporting”	
under Section 404	177
Controlling the Cost of Compliance.....	179
Cost-cutting measures by the PCAOB	179
Section 404 sticker shock.....	181
Decreasing costs in year two	181
Chapter 13: Surviving a Section 404 Audit	183
Dividing Responsibilities in a Section 404 Audit.....	183
Management’s role	184
The independent auditor’s role.....	184
What Is (and Is Not) Related to the Audit	185
Complying with Auditing Standard No. 5	186
Integrating the audits.....	186
Planning the audits	187
Scaling the audits	187
Assessing the risk.....	188
Cutting costs by relying on the work of others	188
Using a top-down approach	189
Flunking a Section 404 Audit.....	189
How to fail a Section 404 audit	189
What to do if your company flunks.....	190
Chapter 14: Taking the Terror Out of Testing	191
The Price of the Project.....	191
The six most common Section 404 project costs.....	192
Meeting massive manpower requirements	192
The social challenges of Section 404	194

Hail to the Documenters	194
The right documentation skills	194
Getting the documentation down	195
Time tracking	195
Scoping out savings	196
Taking an inventory of your company processes	197
Organizing the documentation: Why form is equal to substance	200
Caveats about Controls	201
Key controls	202
Some common key controls	202
Ogling the Outside Vendors: SAS 70 Reports	203
Evaluating Control with the COSO Framework	204
How COSO breaks down companies' controls	204
COSO guidance for your company	205
A Bit about COBIT	205

***Part IV: SOX for Techies*.....207**

Chapter 15: Getting Technical with SOX209

Some Specific SOX Sections That Talk to Techies	210
Ramping up document retention policies	210
Disclosing critical events in real time.....	211
IT and the dreaded SOX Section 404.....	213
Getting a SOX-ified System in Place When . . .	213
. . . Your company is starting from scratch	214
. . . Your company is already halfway there	214
. . . Your company has a larger budget	214
Evaluating Your Systems after SOX	215
Organizing company data.....	215
Getting into the GAAP.....	216
Preventing Control Problems before They Happen.....	216
Spelling out security	216
Logging it all in.....	217
Falling Back on COBIT	217

Chapter 16: Surveying SOX Software219

Some SOX Software Trends.....	219
Identifying the Types of Software on the Market	221
Shopping for SOX Software	223
SOX Meets Cousin IT	224
Collecting scattered company data	225
Evaluating your company's existing IT systems	225
The COSO Standards for Software	228
Complying with COBIT	231

Chapter 17: Working with Some Actual SOX Software 233

Doing Your Research before a Software Installation	233
Tracking the flow of information in your company	234
Following the trial balance trail.....	236
Getting to Know SarbOxPro.....	236
The SarbOxPro checklist.....	238
The SarbOxPro data tree.....	239
SarbOxPro stages	239
Opting for Other Types of Software Solutions	245

Part V: To SOX-finity and Beyond..... 249**Chapter 18: Lawsuits under SOX 251**

The Smoking Gun: Knowledge	251
The First Big SOX Trial: Richard Scrushy	252
The squishy Scrushy facts	253
The prosecutors' post-game recap	254
The Scrushy epilogue: Civil suits, a tax refund, and a new trial...255	
Another Test of the "Ignorance" Defense: Kenneth Lay.....	255
Timing Is Everything: Andersen, Ernst, and KPMG	
Litigation Outcomes.....	257
Arthur Andersen's victory: Three years too late	258
An Ernst error	259
Kid gloves for KPMG?.....	260
The Gemstar Case: Interpreting Section 1103	261
Suing under SOX Section 304.....	261
Suing under Section 806: The Whistle-Blower Provision	262
Blowing the whistle before and after SOX.....	262
What happens when the whistle blows?.....	263
Tips for defending against whistle-blower suits.....	265

Chapter 19: The Surprising Scope of SOX 267

Outsourcing under SOX.....	267
Summarizing SAS 70	268
Sidestepping SAS 70	269
Extending SOX Principles to Not-for-Profits	269
SOX and Foreign Companies.....	271

Part VI: The Part of Tens..... 273**Chapter 20: Ten Ways to Avoid Getting Sued or
Criminally Prosecuted Under SOX 275**

Maintain an Active and Visible Audit Committee	275
Communicate about How to Communicate.....	276

Combat Policy Paranoia and Section 404 Audit-Chondria.....	276
Keep Bonuses within Bounds	277
Separate the Whistle-Blowers from the Whiners	277
Invest in IT Tools and Tricks	277
Do Something with All That Data	278
Disclose Triggering Events on Time	278
Document What's Delegated.....	278
Focus on Product and Service Delivery	279

Chapter 21: Ten Tips for an Effective Audit Committee 281

Pick the Right Number of Members.....	281
Set Up Subcommittees.....	282
Find a Financial Expert	283
Create Questionnaires	284
Adopt a Smart Charter	284
Keep Track of Complaints.....	285
Communicate Liberally	285
Report Annually	286
Identify Conflicts . . . and Nonconflicts	286
Give Notice When Needed	286

Chapter 22: Ten Smart Management Moves 289

Form a Disclosure Committee	289
Set Reporting Schedules	290
Have More Meetings and Send Less E-mail.....	290
Challenge Outdated and Overly Detailed Policies	291
Review Reports with Their Preparers	291
Keep Up with Current Certification Requirements.....	292
Avoid Animosity with the Audit Committee.....	292
Don't Confuse Certification with Control.....	293
Consider Getting Subcertifications.....	293
Track All the Timelines.....	293

Chapter 23: Ten Things You Can't Ask an Auditor to Do After SOX . 295

Keep Your Books	296
Fix Your Financial Information Systems	296
Appraise Company Property	297
Act as an Actuary.....	297
Perform Internal Audit Services for Your Company	297
Fill In for Your Management Team	298
Be a Headhunter.....	298
Advise You on Investments.....	299
Dispense Legal Advice.....	299
Give You an Expert Opinion.....	299

Chapter 24: Top Ten Places to Get Smart about SOX 301

Sample SOX-online	301
Peruse the PCAOB Web Site.....	302

Visit the SEC Web Site.....	302
Get Inside Sarbanes-Oxley Trenches	302
Link to the AICPA Web Site.....	304
Frequent the Forum	304
Click On the COSO Web Site	304
Find the FEI Web Site	304
Spring for a Subscription to Compliance Week.....	305
Don't Forget Wikipedia!	305
 <i>Part VII: Appendixes.....</i>	<i>307</i>
 Appendix A: Selected Sections, Auditing Standard No. 5	309
Introduction	309
Integrating the Audits.....	310
Role of Risk Assessment.....	310
Scaling the Audit	311
Addressing the Risk of Fraud.....	311
Using the Work of Others	311
Using a Top-Down Approach	312
 Appendix B: Sample Certifications	313
Sample General Section 302 Certification	313
Sample Section 906 Certification.....	315
Sample Subcertification of Employee.....	315
 Appendix C: Sample Audit Committee Charter	319
Audit Committee Charter.....	319
Purpose.....	319
Authority	320
Composition.....	322
Meetings	322
Responsibilities	322
 Appendix D: Sample Code of Ethics	329
Business Conduct and Ethics Policy	329
Policy	329
Scope.....	329
Responsibility	329
Provisions.....	330
 Appendix E: Sample SAS 70 Report	337
 <i>Index.....</i>	<i>339</i>

