ADAMS AND REESE LLP

Transactions and Corporate Advisory Services

Corporate Law Alert

Sarbanes-Oxley Act of 2002: Are You Ready?

By Robert C. Beasley

The Sarbanes-Oxley Act of 2002 (the “Act”) was signed into law by President Bush on July 30, 2002. The Act is a landmark piece of legislation that will change the way public companies do business and how the accounting profession performs its audit functions. The following highlights certain portions of the Act that should be of immediate interest to public companies. This Alert is not intended to be a legal memorandum, but rather a plain English overview of only certain important aspects of the Act.

In addition to other important provisions, the Act requires the following:

1. Pre-approval by a public company’s audit committee of all auditing and non-auditing services to be performed by public accounting firms (Sections 201 and 202);

2. Audit committees members cannot receive consulting fees or otherwise be affiliated with the public company other than being on the board or a board committee. Audit committees must also have in place procedures to receive and address complaints regarding accounting, internal control, or auditing issues (Section 301);

3. The Act imposes ongoing CEO/CFO certification of financial reports requirements and criminal penalties for knowing or willful violations (Sections 302 and 906). In addition, companies must maintain adequate disclosure controls and procedures addressing the quality and timeliness of disclosures. *The SEC recommends that each company establish a "disclosure committee" and certain other controls to ensure adequate and timely disclosure*. In addition, the CEO/CFO must certify that: they have evaluated the effectiveness of the company's disclosure controls and procedures as of a date within 90 days prior to the filing date of the applicable quarterly or annual report; they have presented in the applicable quarterly or annual report their conclusions about the effectiveness of the disclosure controls and procedures based on such evaluation; and they have disclosed, based on such evaluation, to the company's auditors and the audit committee of company's board of directors (or persons performing the equivalent function) all significant deficiencies in the design or operation of internal controls which could adversely affect the company's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls.

4. Directors and executive officers are banned from trading in equity securities of the issuer during a blackout period when at least half of the issuer’s IRA plan participants are not permitted to sell their interests (Section 306);

5. Reporting of any material maladjustment under GAAP in annual and quarterly financial statements. The SEC is required to issue final rules implementing this requirement by January 26, 2003 (Section 401);

6. Loans by the company to directors and executive offices are barred (this does not apply retroactively) (Section 402);

7. Immediate (within two business days) disclosure of any trades by officers, directors, and 10% shareholders, effective August 30, 2002 (Section 403);

8. Annual reports filed with the SEC must be accompanied by a statement by company management that management is responsible for creating and maintaining adequate internal controls (Section 404);

9. Companies must disclose whether or not they have adopted a code of ethics for senior financial officers, and if not, why not. There is also required immediate disclosure of any change or waiver in the company’s code of ethics (Section 406);

10. Section 407 requires the SEC to adopt rules requiring companies to disclose whether their audit committees include among their members at least one financial expert.

Adams and Reese, LLP has prepared a Sarbanes-Oxley Act Compliance Binder containing necessary information and practical compliance suggestions that we could make available to you at your request.

Adams and Reese, LLP offers federal and state representation and advice to public and private clients throughout the country, including representing clients in public and private offerings of securities; representation of public companies before the Securities and Exchange Commission; acquisitions and dispositions of business entities, assets, and divisions; negotiation of complex credit facilities and commercial and technology agreements; and public and private offerings of taxable and tax-exempt bonds and other debt instruments.

FREE BACKGROUND INFORMATION IS AVAILABLE UPON REQUEST: No representation is made that the quality of the legal services to be performed is greater than the quality of the legal services performed by other lawyers. Not certified by the Texas Board of Legal Specialization except as noted.

ADAMS AND REESE LLP®

Transactions and Corporate Advisory Services
Securities, Mergers and Acquisitions Practice Team

Baton Rouge
Bank One Centre, 19th Floor, North Tower
451 Florida Street
Baton Rouge, Louisiana 70801
(225) 336.5200
Troy B. Villa

Houston
One Houston Center
1221 McKinney Street, Suite 4400
Houston, Texas 77010
(713) 652.5151
Mark W. Coffin
Robert C. Beasley
Robert J. Kirchhoff
Andrew A. Pidgirsky
Elaine F. Tippitt
Jennifer K. Flatten
Patrick J. LaRue

Jackson
111 East Capitol Street, Suite 350
P.O. Box 24297
Jackson, Mississippi 39225
(601) 353.3234
Charles P. Adams, Jr.
Raymond G. Russell
Michael J. Akers

Mobile
One St. Louis Street, Suite 4500
P.O. Box 1348
Mobile, Alabama 36633
(251) 433.3234
Victor H. Lott, Jr.
W. David Johnson

New Orleans
One Shell Square
701 Poydras Street, Suite 4500
New Orleans, Louisiana 70139
(504) 581.3234
Virginia Boulet
Howard J. Glicksman
D'Juan M. Hernandez
Deitz LeFort
Kenya J.H. Smith
Robert L. Wollfarth
Jennifer M. Neil

www.adamsandreese.com

Adams and Reese LLP
701 Poydras Street, Suite 4500
New Orleans, LA 70139