

**OPENING REMARKS OF THE HONORABLE RUBEN HINOJOSA
COMMITTEE ON FINANCIAL SERVICES
"THE IMPACT OF THE SARBANES-OXLEY ACT"
APRIL 21, 2005**

Chairman Oxley and Ranking Member Frank,

I want to express my sincere appreciation for you holding this important oversight hearing today. I was appointed to this prestigious Committee at a time when all of the corporate scandals were occurring that ultimately led to the need for enactment of the "Sarbanes-Oxley Act." I am familiar with the underlying legislation and now am interested, as well as concerned, about the impact it is having on the financial services sector. Having heard from several of my constituents on this legislation, I think this hearing is more than timely. It is desperately needed, and I thank the Chairman again for holding it.

One of the letters I received from a constituent was rather provocative. In it, he said that he was sending the letter to appeal to me to do something about the "Sarbanes-Oxley Act," particularly Section 404 the statute's provisions regarding internal control audits that have become the subject of considerable public debate.

In his letter, my constituent argues that the Act is the "most ineffective piece of legislation that has come out of Congress in recent years." He further contends that the financial burden the legislation imposes on public companies is "outrageous, resulting in virtually no gain." According to the letter I received, which I cite because it is typical of most of the others, the cost of complying with the Act tripled his company's audit and associated fees and diverted a massive amount of his company's internal time from productive work to compliance. My constituent concluded his letter stating rather bluntly that "The bottom line – with regard to the "Sarbanes-Oxley Act" - is that Section 404 is a huge waste of resources."

The author of that letter attached a Letter to the Editor from The Wall Street Journal dated Monday, March 21, 2005. He highlighted certain sections of the letter, particularly the ones on Section 404 of SOX. The letter contends that the Section 404 procedures to audit corporations' internal controls do little to prevent high-level fraud, which was the case in Enron and WorldCom; the 404 audits are almost entirely focused on the micro-operational details of the firm and are likely to miss the kind of financial legerdemain orchestrated at the top that previously led to the Enron, WorldCom and other bankruptcies; and the "Sarbanes-Oxley Act" will levy \$35 billion of additional costs on corporate America in the coming year – 20 times more than the SEC originally estimated.

Some contend that Section 404 costs will be reduced by as much as one-half next year, due to the fact that SOX systems will be in place and documentation will be completed. Certain of my constituents does not agree, and, based on assertions, even I question that contention. Although I have reminded my constituents that the SEC has given small

companies and foreign companies a delay in complying with 404, this has not addressed the concerns and complaints of the larger companies.

In the end, the author of the letter to me recommends making Section 404 mandates on internal controls voluntary, while keeping intact the rest of the “Sarbanes-Oxley Act.”

There is also a ABA proposal related to the Sarbanes-Oxley Act that I am reviewing. They propose updating the shareholder threshold that determines which businesses are subject to SEC reporting requirements. The proposal also includes a recommendation that the role of the external audit in internal testing required by the Sarbanes-Oxley Act be re-examined. ABA goes on to propose that the SEC, the Public Company Accountability Oversight Board and industry work together to improve guidelines clarifying that the external auditors’ role is to test work done by companies’ own auditors, and not to replicate the internal audit step-by-step.

Chairman Oxley, I have the utmost respect for you, Senator Sarbanes, Chairman Baker, Ranking Members Frank and Kanjorski and my fellow colleagues who worked so diligently and deliberatively with me and others to enact SOX. However, I believe that a serious review of the ABA’s proposal, and others, is merited at this time. I would recommend that the Committee hold a hearing on this and similar proposals.

In the meantime, and to that end, I would request that SEC Chairman Donaldson and PCAOB Chairman McDonough respond to my attached questions as expeditiously as possible, preferably before the PCAOB issues additional guidance in these matters. I also ask that the questions and the responses be included in the official hearing record.

Mr. Chairman, I yield back the remainder of my time.