

Sarbanes–Oxley Act

The **Sarbanes–Oxley Act of 2002** (Pub.L. 107–204 (<http://legislink.org/us/pl-107-204>), 116 Stat. 745 (<http://legislink.org/us/stat-116-745>), enacted July 30, 2002), also known as the "Public Company Accounting Reform and Investor Protection Act" (in the Senate) and "Corporate and Auditing Accountability, Responsibility, and Transparency Act" (in the House) and more commonly called **Sarbanes–Oxley**, **Sarbox** or **SOX**, is a United States federal law that set new or expanded requirements for all U.S. public company boards, management and public accounting firms. There are also a number of provisions of the Act that also apply to privately held companies; for example, the willful destruction of evidence to impede a Federal investigation.

The bill, which contains eleven sections, was enacted as a reaction to a number of major corporate and accounting scandals, including Enron and WorldCom. The sections of the bill cover responsibilities of a public corporation's board of directors, adds criminal penalties for certain misconduct, and required the Securities and Exchange Commission to create regulations to define how public corporations are to comply with the law.

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Sarbanes–Oxley Act of 2002



Long title	An Act To protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.
Nicknames	Sarbanes–Oxley, Sarbox, SOX
Enacted by	the 107th United States Congress
	Citations
Public law	Pub.L. 107–204 (http://legislink.org/us/pl-107-204)
Statutes at Large	116 Stat. 745 (http://legislink.org/us/stat-116-745)
	Codification
Acts amended	Securities Exchange Act of 1934, Securities Act of 1933, Employee Retirement Income Security Act of 1974, Investment Advisers Act of 1940, Title 18 of the United States Code, Title 28 of the United States Code
Titles amended	15, 18, 28, 29
	Legislative history
	<ul style="list-style-type: none"> Introduced in the House as "Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002" (H.R. 3763 (https://www.congress.gov/bill/107th-congress/house-bill/3763)) by Mike Oxley (R-OH) on February 14, 2002 Committee consideration by House Financial Services, Senate Banking Passed the House on April 24, 2002 (334–90 (http://clerk.house.gov/evs/2002/roll110.xml)) Passed the Senate as the "Public

Background

In 2002, Sarbanes–Oxley was named after bill sponsors U.S. Senator Paul Sarbanes (D-MD) and U.S. Representative Michael G. Oxley (R-OH). As a result of SOX, top management must individually certify the accuracy of financial information. In addition, penalties for fraudulent financial activity are much more severe. Also, SOX increased the oversight role of boards of directors and the independence of the outside auditors who review the accuracy of corporate financial statements.^[1]

The bill, which contains eleven sections, was enacted as a reaction to a number of major corporate and accounting scandals, including those affecting Enron, Tyco International, Adelphia, Peregrine Systems, and WorldCom. These scandals cost investors billions of dollars when the share prices of affected companies collapsed, and shook public confidence in the US securities markets.

The act contains eleven titles, or sections, ranging from additional corporate board responsibilities to criminal penalties, and requires the Securities and Exchange Commission (SEC) to implement rulings on requirements to comply with the law. Harvey Pitt, the 26th chairman of the SEC, led the SEC in the adoption of dozens of rules to implement the Sarbanes–Oxley Act. It created a new, quasi-public agency, the Public Company Accounting Oversight Board, or PCAOB, charged with overseeing, regulating, inspecting, and disciplining accounting firms in their roles as auditors of public companies. The act also covers issues such as auditor independence, corporate governance, internal control assessment, and enhanced financial disclosure. The nonprofit arm of Financial Executives International (FEI), Financial Executives Research Foundation (FERF), completed extensive research studies to help support the foundations of the act.

The act was approved in the House by a vote of 423 in favor, 3 opposed, and 8 abstaining (<http://clerk.house.gov/evs/2002/roll348.xml>) and in the Senate with a vote of 99 in favor and 1 abstaining (https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=00192). President George W. Bush signed it into law, stating it included "the most far-reaching reforms of American business practices since the time of Franklin D. Roosevelt. The era of low standards and false profits is over; no boardroom in America is above or beyond the law."^[2]

In response to the perception that stricter financial governance laws are needed, SOX-type regulations were subsequently enacted in Canada (2002),^[3] Germany (2002), South Africa (2002), France (2003), Australia (2004), India (2005), Japan (2006), Italy (2006), Israel, and Turkey. (See § Similar laws in other countries below.)

Debates continued as of 2007 over the perceived benefits and costs of SOX. Opponents of the bill have claimed it has reduced America's international competitive edge against foreign financial service providers because it has introduced an overly complex regulatory environment into US financial markets. A study commissioned by NYC Mayor Michael Bloomberg and US Sen. Charles Schumer, (D-NY), cited this as one reason America's financial sector is losing market share to other financial centers worldwide.^[4] Proponents of the measure said that SOX has been a "godsend" for improving the confidence of fund managers and other investors with regard to the veracity of corporate financial statements.^[5]

The 10th anniversary of SOX coincided with the passing of the Jumpstart Our Business Startups (JOBS) Act, designed to give emerging companies an economic boost, and cutting back on a number of regulatory requirements.

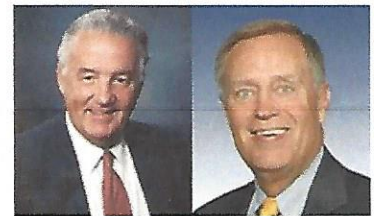
Major elements

1. Public Company Accounting Oversight Board (PCAOB)

Title I consists of nine sections and establishes the Public Company Accounting Oversight Board, to provide independent oversight of public accounting firms providing audit services ("auditors"). It also creates a central oversight board tasked with registering auditors, defining the specific processes and procedures for compliance audits, inspecting and policing conduct and quality control, and enforcing compliance with the specific mandates of SOX.

Company Accounting Reform and Investor Protection Act of 2002" on July 15, 2002 (voice vote, in lieu of S. 2673 (<https://www.congress.gov/bill/107th-congress/senate-bill/2673>) passed 97–0 (https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=00176))

- **Reported by the joint conference committee on July 24, 2002; agreed to by the House on July 25, 2002 (423–3** (<http://clerk.house.gov/evs/2002/roll348.xml>)) **and by the Senate on July 25, 2002 (99–0** (https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=00192))
- **Signed into law by President George W. Bush on July 30, 2002**



Sen. Paul Sarbanes (D–MD) and Rep. Michael G. Oxley (R–OH–4), the co-sponsors of the Sarbanes–Oxley Act

2. Auditor Independence

Title II consists of 9 sections and establishes standards for external auditor independence, to limit conflicts of interest. It also addresses new auditor approval requirements, audit partner rotation, and auditor reporting requirements. It restricts auditing companies from providing non-audit services (e.g., consulting) for the same clients.

3. Corporate Responsibility

Title III consists of eight sections and mandates that senior executives take **individual responsibility** for the accuracy and completeness of corporate financial reports. It defines the interaction of external auditors and corporate audit committees, and specifies the responsibility of corporate officers for the accuracy and validity of corporate financial reports. It enumerates specific limits on the behaviors of corporate officers and describes specific forfeitures of benefits and civil penalties for non-compliance. For example, Section 302 requires that the company's "principal officers" (typically the Chief Executive Officer and Chief Financial Officer) certify and approve the integrity of their company financial reports quarterly.^[6]

4. Enhanced Financial Disclosures

Title IV consists of nine sections. It describes enhanced reporting requirements for financial transactions, including off-balance-sheet transactions, pro-forma figures and stock transactions of corporate officers. It requires internal controls for assuring the accuracy of financial reports and disclosures, and mandates both audits and reports on those controls. It also requires timely reporting of material changes in financial condition and specific enhanced reviews by the SEC or its agents of corporate reports.

5. Analyst Conflicts of Interest

Title V consists of only one section, which includes measures designed to help restore investor confidence in the reporting of securities analysts. It defines the codes of conduct for securities analysts and requires disclosure of knowable conflicts of interest.

6. Commission Resources and Authority

Title VI consists of four sections and defines practices to restore investor confidence in securities analysts. It also defines the SEC's authority to censure or bar securities professionals from practice and defines conditions under which a person can be barred from practicing as a broker, advisor, or dealer.

7. Studies and Reports

Title VII consists of five sections and requires the Comptroller General and the SEC to perform various studies and report their findings. Studies and reports include the effects of consolidation of public accounting firms, the role of credit rating agencies in the operation of securities markets, securities violations, and enforcement actions, and whether investment banks assisted Enron, Global Crossing, and others to manipulate earnings and obfuscate true financial conditions.

8. Corporate and Criminal Fraud Accountability

Title VIII consists of seven sections and is also referred to as the "Corporate and Criminal Fraud Accountability Act of 2002". It describes specific criminal penalties for manipulation, destruction or alteration of financial records or other interference with investigations, while providing certain protections for whistle-blowers.

9. White Collar Crime Penalty Enhancement

Title IX consists of six sections. This section is also called the "White Collar Crime Penalty Enhancement Act of 2002". This section increases the criminal penalties associated with white-collar crimes and conspiracies. It recommends stronger sentencing guidelines and specifically adds failure to certify corporate financial reports as a criminal offense.

10. Corporate Tax Returns

Title X consists of one section. Section 1001 states that the Chief Executive Officer should sign the company tax return.

11. Corporate Fraud Accountability

Title XI consists of seven sections. Section 1101 recommends a name for this title as "Corporate Fraud Accountability Act of 2002". It identifies corporate fraud and records tampering as criminal offenses and joins those offenses to specific penalties. It also revises sentencing guidelines and strengthens their penalties. This enables the SEC to resort to temporarily freezing transactions or payments that have been deemed "large" or "unusual".

History and context: events contributing to the adoption of Sarbanes–Oxley

A variety of complex factors created the conditions and culture in which a series of large corporate frauds occurred between 2000–2002. The spectacular, highly publicized frauds at Enron, WorldCom, and Tyco exposed significant problems with conflicts of interest and incentive compensation practices. The analysis of their complex and contentious root causes contributed to the passage of SOX in 2002.^[7] In a 2004 interview, Senator Paul Sarbanes stated:

"The Senate Banking Committee undertook a series of hearings on the problems in the markets that had led to a loss of hundreds and hundreds of billions, indeed trillions of dollars in market value. The hearings set out to lay the foundation for legislation. We scheduled 10 hearings over a six-week period, during which we brought in some of the best people in the country to testify...The hearings produced remarkable consensus on the nature of the problems: inadequate oversight of accountants, lack of auditor independence, weak corporate governance procedures, stock analysts' conflict of interests, inadequate disclosure provisions, and grossly inadequate funding of the Securities and Exchange Commission."^[8]

- Auditor conflicts of interest: Prior to SOX, auditing firms, the primary financial "watchdogs" for investors, were self-regulated. They also performed significant non-audit or consulting work for the companies they audited. Many of these consulting agreements were far more lucrative than the auditing engagement. This presented at least the appearance of a conflict of interest. For example, challenging the

