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INDICES

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Stocks A-Z

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New Study of 3,321 Smaller Public Companies Reveals Impact of Sarbanes-Oxley Delays

10/09/2008 - 17:53

Lord & Benoit, a SOX research and consulting firm, just published "**First Year SOX Results for Small Business: Benefits of the Delays**," a brand new study of all 3,321 smaller U.S. public non-accelerated filers with fiscal year-ends between December 15, 2007 and January 31, 2008 to answer a crucial question that government officials, legislators, business executives, and journalists have been asking the past four years: "*Did the continuous delays in deadlines help smaller public companies to prepare for Sarbanes-Oxley Section 404(a) compliance?*"

The facts, based on Audit Analytics data, reveal that companies did not use the extra time wisely. For example:

*** 34% last minute** : there is ample evidence that 34% of non-accelerated filer companies gave little or no consideration to the Section 404 (a) delays and therefore completed assessments at the last minute or not at all. The combined market capitalization of these 1,143 companies with material weaknesses was over \$50 billion.

*** 19% non-compliance** : 12% either filed a faulty report or disclosed inadequate segregation of duties without any evidence of complying. 7% were emboldened not to do any work at all in understanding and satisfying Section 404 (a). They did not even file a report. The combined market capitalization of this group of companies was nearly \$26 billion.

*** 88% discrepancies** : 506 of the 575 non-accelerated filer companies with material weaknesses under Section 404 (a) reported clean controls under Section 302 the quarter before--just weeks before year-end.

*** 19% non-compliant audit committee** : The rate of non-compliant audit committees in smaller public companies was ten times greater (19.0%) compared to the percentage of accelerated filers who complied four years earlier (1.9%).

*** 78% ethics and competency** : 78% of non-accelerated filer companies with adverse reports reported material weaknesses from "tone at the top/ethics" and "competency/training".

"The results are obviously disappointing" says Bob Benoit, President and Director of SOX Research for Lord & Benoit, "Perhaps the four years of delays lulled companies into thinking 404(a) would go away. Unfortunately, only a small majority used the time wisely to establish QA measures in financial reporting."

Now what?

"I believe we have just seen the tip of the iceberg", adds Benoit; "Once auditor attestation is required, we'll see another surge of material weaknesses reported to investors. Many companies are still not taking SOX 404(a) seriously and perhaps won't until external auditors have a direct means of communicating material control weaknesses to investors."

A free copy of the Report is available online. In addition, on September 25, 2008 at 2 pm ET, Lord & Benoit will host a free webinar describing this report and its public policy ramifications. The webinar is open to interested executives, CPAs, auditors and journalists, and will include live Q&A. For details, visit www.Section404.org.

The Lord & Benoit Report was written by Bob Benoit. Bob is President and Director of SOX Research at Lord & Benoit, LLC, one of the most influential SOX Research and Compliance firms for smaller public companies. In addition to his position with Lord & Benoit, Bob serves on the COSO Monitoring Project Taskforce. He has also served on the AICPA Peer Review Acceptance Board in MA for 10 years, has taught Complying with Sarbanes-Oxley Section 404 throughout the country through the State CPA Societies and is the author of the Lord & Benoit Reports, which have been referenced by the SEC, PCAOB, COSO, AICPA, CHH, RIA, BNA, Wall Street Journal, all of the "Big 4" firms and nearly 200 legal, educational and trade journals around the world. Bob is the first evaluator to use the COSO Guidance for Smaller Public Companies, the inventor of Virtual SOX taught on the AICPA Technology website and research contributor to the SEC Subcommittee, SEC Concept Releases and SEC/PCAOB Internal Control Roundtables.

Webinar for execs, CPAs, auditors and journalists on September 25 @ 2 pm ET

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