

US SEC to hear complaints over Sarbanes-Oxley law

Sun May 7, 2006 4:02 PM ET

By Joel Rothstein

WASHINGTON, May 7 (Reuters) - U.S. securities regulators will hear the business community's passionately held views this week on how to fix or kill post-Enron corporate reforms that many believe are hurting American competitiveness.

The landmark Sarbanes-Oxley law, approved by Congress in 2002 to restore investor confidence after a string of accounting scandals, is already under attack.

A challenge is pending in federal court and House Republicans are expected to introduce a bill this week that would roll back part of the law.

On Wednesday, the Securities and Exchange Commission and the Public Company Accounting Oversight Board will hold a meeting to hear company complaints that the costs of complying with the law far outweigh any benefits.

Last month an advisory committee urged the SEC to exempt smaller companies from a key portion of the law, Section 404, that requires companies and outside auditors to confirm the effectiveness of internal accounting controls.

Accounting firms, which earn huge audit fees from the requirements, oppose major reforms to the law.

PricewaterhouseCoopers said in a letter to the SEC that it continues to see positive changes in the awareness of the need for internal controls. "We attribute much of these changes to the implementation of the requirements of Section 404."

Executives from major U.S. accounting firms and corporate giants like General Electric <GE.N>, CBS <CBSa.N>, and Microsoft Corp. <MSFT.O> are due to attend the meeting.

Others, like heavy equipment maker Caterpillar Inc. <CAT.N>, have made submissions in advance.

"We believe there have been some benefits derived from Section 404. However, significant costs have been placed on U.S. companies to comply with Section 404, primarily from the transactional focus of Section 404," Caterpillar told the SEC.

It wants the SEC to steer away from what it calls minor issues, like checking signatures on small transactions.

"The financial scandals by a few companies ... did not occur at the transactional level, but were the result of unethical leaders and weak governance," the Caterpillar letter said.

Four of the SEC's five commissioners have said they favor remedies short of the complete 404 exemption for small companies -- about 80 percent of U.S. public companies -- recommended by its own advisory panel.

Critics say compliance costs are driving U.S. companies considering initial public offerings to go overseas.

"Capital is fleeing America largely because of Sarbanes-Oxley," said Florida Republican Rep. Tom Feeney, author of a bill that would allow most small companies to opt out of 404 compliance. The remaining companies would be subject to less frequent audits and relaxed review standards.

Some SOX critics say London Stock Exchange's Alternative Investment Market has become attractive to young companies.

"Eighteen months ago, if you queried a room of venture capitalists about the London AIM, few would have the market on their radar screen. Today, it is a viable and well understood option," Keith Crandell, board director of the National Venture Capital Association, recently told a congressional hearing.

Overseas regulators, however, may not be as pliable in the long run as American critics expect.

Michael Duffy, the chief executive of OpenPages Inc., a maker of software to help manage internal control reviews, says France, Germany and Spain are introducing similar laws. Japan is even calling its plan J-SOX in reference to the U.S. law.

Maryland Democratic Sen. Paul Sarbanes and Ohio Republican Rep. Michael Oxley, the retiring members of Congress who shaped the legislative response to scandals at Enron and Worldcom, disagree on what should happen next.

Sarbanes said earlier this year that the "law is working as intended" while Oxley now says he supports "dealing" with the issue, when asked if he supports 404 exemptions.

Oxley said last week he thinks SEC Chairman Christopher Cox wants to try to find a consensus among the SEC commissioners, "and my sense is he is moving in that direction but not necessarily the blanket exemption."

OpenPages' Duffy said that in spite of warnings that Sarbanes-Oxley would harm U.S. equity markets, major indices have soared since it was enacted.

Since the bill became law on July 30, 2002, the Dow Jones Industrial Average has risen to 11,578 as of Friday from 8,680 while the Nasdaq Composite Index has risen to 2,343 from 1,343.