

## Corporate & Financial Weekly Digest

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### **SEC Issues Study and Recommendation on SOX Section 404(b) for Issuers with Public Float Between \$75 and \$250 Million**

Section 989G(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act required the Securities and Exchange Commission to conduct a study to determine how the SEC could reduce the burden of complying with Section 404(b) of the Sarbanes-Oxley Act (the auditor attestation requirement) for companies whose market capitalization is between \$75 and \$250 million, while at the same time maintaining investor protection. The SEC was also required to consider whether an exemption for such companies from Section 404(b) compliance would encourage the U.S. listing of initial public offerings (IPOs).

In a 113-page study published on April 22, the SEC concluded that the existing requirements for issuers with a \$75-\$250 million public float to comply with the auditor attestation provisions of Section 404(b) should be maintained and that no new exemptions should be granted. Specifically, the SEC found that over time the costs and burdens of Section 404(b) compliance have declined and that eliminating them would not "justify the loss of investor protections and benefits to issuers...". It also found that "the evidence does not suggest that granting an exemption to issuers that would expect to have \$75-\$250 million in public float following an IPO would, by itself, encourage companies in the United States or abroad to list their IPOs in the United States". In sum, the SEC, noting that the Dodd-Frank Act already exempts approximately 60% of reporting issuers from Section 404(b) compliance, does not recommend further extending this exemption.

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