



Major Issues on the Sarbanes-Oxley Act of 2002

Financial Services Agency (FSA) of Japan
June 2003

I . Impact of the Sarbanes-Oxley Act of 2002 (“SOX”)

- Important accomplishment for restoring investor confidence in the United States securities markets
- The FSA has been taking measures for securities markets reforms, taking into consideration international developments including the SOX.
(as shown in the FSA’s “New Comprehensive Program for Promoting Securities Market Reform” , dated August 6, 2002)

II . Two Major Issues on the SOX (1)

Sec 106 Foreign Public Accounting Firms

- Legal effects on major Japanese audit firms
 - registration with the Public Company Accounting Oversight Board (PCAOB)
 - inspections and investigations and disciplinary proceedings by the PCAOB
 - requirement to produce audit workpapers
- Problems for the FSA and major Japanese audit firms
 - direct supervision by the U.S. authority over Japanese audit firms which are subject to the Japanese oversight system
 - forced disclosure of confidential information to foreign authorities prohibited under the Japanese law
- Solution ⇒ Appropriate exemption from Section 106 to Japanese audit firms
- No exemption for foreign accounting firms from the registration requirement under the Rule by PCAOB in April ⇒ Solicitation of comments on the Rule by the SEC (deadline: July 2)
- Three Principles
 - mutual respect for each jurisdiction's sovereignty and auditor oversight system
 - importance of substantially equivalent auditor oversight system
 - practical cooperation between auditor oversight bodies of the U.S. and Japan

II . Two Major Issues on the SOX (2)

Sec 301 Public company audit committees

- Requirement for “issuers” to have “audit committees” (composed of “independent directors”) which shall be directly responsible for the appointment, compensation and oversight of the work of any registered public accounting firm
- Conflicts between the requirement of Section 301 and the Japanese corporate governance system
- Solution ⇒ Appropriate exemption from Section 301 to the Japanese issuers
- Some exemptions (including the Japanese board of corporate statutory auditors system) and extended implementation date (July 31, 2005) for foreign private issuers under the final rule of the SEC in April

III. Japan FSA's Initiatives on Issues of the SOX

We have taken following concrete initiatives to have constructive dialogues with the SEC.

- Meetings with the SEC Commissioners and staff (since July 2002)
- Meetings of the U.S. – Japan Financial Dialogue (last October and December)
- Meeting of the U.S. – Japan Subcabinet Economic Dialogue (April 2003)
- Meetings of the U.S. – Japan Private Sector / Government Commission (last November and April)
- Meetings of the U.S. – Japan Investment Initiative (last November, March and April)
- Letters to the SEC Chairman, Commissioners and staff, and PCAOB Chairman (since July 2002)
- A visit of the Japanese mission (government and private) to the SEC (last December)
- Participations in the SEC Roundtable on Auditor independence (last December) and the PCAOB Roundtable on Registration and Oversight of Non-U.S. Public Accounting Firms (end of March)
- Comment letters to SEC and PCAOB proposed rules (since last August)