

Comparison of U.S. and Canadian Regulatory Changes

1. Independent Oversight of the Public Accounting Profession	
U.S. Standards Arising from Sarbanes-Oxley Act of 2002 ¹	Canadian Response
<p>Title I: Public Company Accounting Oversight Board</p> <p>The Board’s responsibilities under the Act are to:</p> <ul style="list-style-type: none"> ■ Inspect and register public accounting firms (“registered firms”) that prepare audit reports for issuers; ■ Establish, adopt, or modify auditing, quality control, ethics, independence, and other standards for public company audits; ■ Enforce compliance with the Act, the rules of the Board, professional standards, and the securities laws relating to the preparation and issuance of audit reports and the related obligations and liabilities of accountants; ■ Investigate registered firms for potential violations of applicable rules relating to audits; ■ Impose sanctions if those violations are established; ■ Set its budget and manage its operations, and ■ Perform such other duties or functions as the Board or SEC determines necessary. <p>The Board is to have five members, two of whom must be certified public accountants; the other three must not be certified public accountants. Four of the Board members have been appointed and the chair is expected to be appointed shortly.</p>	<p>Canadian Public Accountability Board (“CPAB”)</p> <p>CPAB has been established by a co-operative national effort involving federal and provincial regulators along with Canada’s Chartered Accountants (CA).</p> <p>Under the terms of the CPAB, CA firms auditing public companies will subject themselves to a number of new requirements, including:</p> <ul style="list-style-type: none"> ■ undergoing more frequent and rigorous inspections; ■ adopting proposed new Canadian auditor independence rules as soon as practicable; ■ adopting second partner review of all public company audits; and ■ implementing new quality control requirements. <p>In October 2002, Gordon Thiessen (former Governor of the Bank of Canada) was announced as the chair of CPAB. The remaining ten members of CPAB, a majority of whom will be independent of the CA profession, are expected to be announced shortly.</p> <p>Auditing Standards Oversight Council</p> <p>In October 2002, the establishment of the Auditing and Assurance Standards Oversight Council (AASOC) was announced. James C. Baillie was announced as chair of the AASOC that will oversee the Assurance Standards Board (ASB), providing input, strategic direction and the perspective of users into the setting of auditing and assurance standards in Canada. The ASB is the national body with the authority and responsibility for setting auditing and assurance standards for the public and private sectors.</p> <p>AASOC will have between nine and 12 members, with the chair and majority of members drawn from outside the audit profession.</p>

¹ This summary does not address all sections of the Sarbanes-Oxley Act of 2002 discussed in the KPMG publication, *Sarbanes-Oxley: A Closer Look*. It addresses those sections that most directly affect the relationship between the auditor, the audit committee and management.

2. Strengthening the Independence of External Auditors	
U.S. Standards Arising from Sarbanes-Oxley Act of 2002	Canadian Response
<p>Title II: Auditor Independence</p> <p>1. Services outside the scope of practice of auditors (Section 201) Revises the SEC regulations related to the non-audit services that, if provided to an audit client, would impair an accounting firm's independence.</p> <p>2. Pre-approval requirements (Section 202) Requires an issuer's audit committee to pre-approve all audit and non-audit services provided to the issuer by the auditor. Requires disclosure to investors of information related to audit and non-audit services provided by, and fees paid to, the auditor.</p> <p>3. Audit partner rotation (Section 203) Compensation of audit partners Prohibits specified "audit partners" from providing audit services to the issuer for more than five or seven consecutive years, depending on the partner's involvement in the audit. An accountant will not be independent from an audit client if an "audit partner" receives compensation based on the partner selling non-audit services to the audit client.</p> <p>4. Auditor reports to audit committees (Section 204) Requires the auditor to report certain matters to the issuer's audit committee, including "critical" accounting policies, alternative accounting treatments the auditor has discussed with management, the ramifications of those alternatives, and the treatment preferred by the auditor.</p> <p>5. Conflicts of interest (Section 206) Prohibits an accounting firm from auditing an issuer's financial statements if certain members of management of that issuer had been members of the accounting firm's audit engagement team within the one-year period preceding the commencement of the audit.</p>	<p>Proposed Canadian Independence Standards</p> <p>The Canadian Institute of Chartered Accountants (CICA) issued an exposure draft in September 2002 requesting comments on proposed new independence standards that are a combination of the "principles based" new independence standards of the International Federation of Accountants and SEC "rules" then in effect for listed entities:</p> <ul style="list-style-type: none"> ■ consistent with the SEC, the proposed standard would prohibit a firm from providing certain non-audit services to listed entities ■ audit committee pre-approval requirements are not addressed in the exposure draft as only the securities regulators or stock exchanges have authority to provide direction to audit committees ■ requires that the lead engagement partner on a public company audit client be replaced after five years and that the individual cannot resume that role for two years. The draft standard does not address compensation of partners. ■ auditor reports to audit committees are not addressed in the draft standard as new standards were issued by the CICA in early 2002: CICA Handbook-Assurance Section 5751, <i>Communications With Those Having Oversight Responsibility for the Financial Reporting Process</i>. ■ proposed standard identifies employment of a member of the engagement team or partner of the audit firm in a position to exert influence over the audit engagement as a threat to independence. It requires safeguards similar to the previous SEC rule in this area however it does not specifically require a "cooling off" period as introduced by the new SEC rules. <p>The CICA is currently considering the new SEC independence rules prior to issuing a final independence standard. We expect that the new SEC rules on services outside the scope of practice of auditors and audit partner rotation will be substantially adopted by the CICA in their final standards for publicly traded entities.</p>

2. Strengthening the Independence of External Auditors *(continued)*

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	<p>As a result of the SEC transition rules, audit partner rotation for Canadian partners of SEC registrants would not be required for at least five years. It is expected that the final standard issued by the CICA will require rotation of lead and concurring partners on all Canadian public companies to commence sooner than this.</p> <p>It is possible that the CICA may also adopt the SEC rules on conflicts of interest and partner compensation.</p> <p>Securities Reform</p> <p>In November 2002, the Toronto Stock Exchange (TSX) proposed revisions to its TSX Company Manual that would affect its listed issuers. The revisions recommend that the audit committee consider partner rotation and the hiring by the company of former employees of the auditor when discussing auditor independence. In addition, it provides guidance on other discussions the audit committee should have with the auditor, including critical accounting policies.</p> <p>In late 2002 the Ontario government introduced Bill 198 that would give the Ontario Securities Commission (“OSC”) the authority to introduce new corporate governance requirements. One area where it may introduce new rules relates to “appointment of and prescribing requirements for audit committees”. After this bill becomes law, it is also possible that the OSC will introduce requirements relating to pre-approval of auditor services by the audit committee and public disclosures by registrants of information related to services provided by the auditor, including fees paid for various services. It is also possible that changes will be made through the Canadian Securities Administrators (CSA) so that they become applicable to registrants in all provinces.</p>

3. Enhanced Responsibilities of Audit Committees and Management	
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<p>Title III: Corporate Responsibility</p> <p>1. Public company audit committees (Section 301) Proposed requirements relate to: the audit committee's responsibility to select, compensate, retain and oversee the issuer's independent auditor; the independence of audit committee members; procedures for handling complaints regarding accounting, internal accounting controls or auditing matters; the authority of the audit committee to engage advisors; and funding for the independent auditor and any outside advisors engaged by the audit committee.</p> <p>2. Corporate responsibility for financial reports (Section 302) Requires an issuer's chief executive and financial officers each to certify the financial and other information contained in the issuer's quarterly and annual reports. Also requires these officers to certify that: they are responsible for establishing, maintaining and regularly evaluating the effectiveness of the issuer's "disclosure controls and procedures"; they have made certain disclosures to the issuer's independent auditors and the audit committee about the issuer's internal controls; and they have included information in the issuer's quarterly and annual reports about their evaluation of disclosure controls and procedures and whether there have been significant changes in the issuer's internal controls or in other factors that could significantly affect internal controls subsequent to the evaluation. In conjunction with the proposed rules on "Management assessment of internal controls" under Title IV, management's evaluation would also cover internal controls and procedures for financial reporting.</p> <p>3. Improper influence on conduct of audits (Section 303) Proposed rules to prohibit officers and directors of an issuer, and persons acting under the direction of an officer or director, from taking any action to fraudulently influence, coerce, manipulate or mislead the auditor of the issuer's financial statements for the purpose of rendering the financial statements materially misleading.</p>	<p>Securities Reform</p> <p>The proposed TSX Company Manual includes recommendations that the audit committee charter, among other things, set out the role and oversight responsibility to engage, evaluate, remunerate and terminate the external auditor and funding for the auditor and any advisors. It also recommends the audit committee be composed solely of "unrelated directors" and that it establish procedures to receive and handle complaints about accounting or audit matters.</p> <p>Bill 198 would also allow the OSC to introduce rules in these areas.</p> <p>Bill 198 would also allow the OSC to issue rules relating to:</p> <ul style="list-style-type: none"> ■ requiring systems of internal controls, ■ requiring disclosure controls and procedures ■ requiring chief executive officers and chief financial officers to provide certifications related to internal controls and to disclosure controls and procedures <p>No similar rules have been introduced to date.</p>

4. Enhanced Disclosure of Financial Information	
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<p>Title IV: Enhanced Financial Disclosures</p> <p>1. Disclosures in periodic reports (Section 401)</p> <p>Requires a registrant to provide an explanation of its off-balance sheet arrangements in a separately captioned subsection of the "Management's Discussion and Analysis" ("MD&A") section of a registrant's disclosure documents. Requires registrants (other than small business issuers) to provide an overview of certain known contractual obligations in a tabular format. Also requires that publicly disclosed pro forma financial information not be materially misleading and be accompanied by a reconciliation to the related financial statements.</p> <p>2. Management assessment of internal controls (Section 404)</p> <p>Proposed rules requiring companies to include an annual internal control report of management stating the following: management's responsibilities for establishing and maintaining adequate internal controls and procedures for financial reporting for the company; management's assessment of the effectiveness of the company's internal controls and procedures for financial reporting as of the end of the company's most recent fiscal year; and that the company's independent auditor has attested to, and reported on, management's evaluation of the company's internal controls and procedures for financial reporting.</p> <p>3. Code of ethics for senior financial officers (Section 406)</p> <p>Requires a company to disclose whether it has adopted a code of ethics that applies to the company's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. A company disclosing that it has not adopted such a code must disclose this fact and explain why it has not done so. A company also will be required to promptly disclose amendments to, and waivers from, the code of ethics relating to any of those officers.</p>	<p>Securities Reform</p> <p>The CSA have issued proposed MD&A Form 51-102F2 that contains enhanced disclosure requirements for off-balance sheet arrangements, contractual obligations and critical accounting policies. It is likely the CSA will consider the new SEC requirements as they amend their proposed disclosures, which are expected to be reissued for further comment in the spring of 2003.</p> <p>The CSA released Staff Notice 52-303 "Non-GAAP Earnings Measures" in January 2002 that addresses some of the same issues relating to "pro forma" financial information as addressed by the SEC rules.</p> <p>Bill 198 would also allow the OSC to issue rules relating to:</p> <ul style="list-style-type: none"> ■ requiring chief executive officers and chief financial officers to provide certifications related to internal controls, and ■ defining auditing standards for auditors' reporting on internal controls <p>The proposed TSX Company Manual requires that each issuer adopt a formal code of business ethics or conduct that applies to directors, officers and employees. The code must be disclosed either in the annual report or information circular at least once every three years or on the issuer's website. Disclosure of any waivers granted to directors or officers must be made in the next quarterly report.</p>

4. Enhanced Disclosure of Financial Information (continued)	
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<p>4. Disclosure of audit committee financial expert (Section 407)</p> <p>Requires a company to disclose whether it has at least one “audit committee financial expert” serving on its audit committee, and if so, the name of the expert and whether the expert is independent of management. A company that does not have an audit committee financial expert must disclose this fact and explain why it has no such expert.</p>	<p>The proposed TSX Company Manual recommends that members of the audit committee should be financially literate and at least one member should have accounting or related financial experience. The TSX definition of “accounting or related experience” is less prescriptive than the SEC definition of “audit committee financial expert”.</p>