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SEC Grants Six-Month Extension for Non-Accelerated Filers to Begin Complying with Final Stage of Sarbanes-Oxley

The SEC granted a six-month extension for non-accelerated filers to begin complying with Section 404(b) of the Sarbanes-Oxley Act of 2002.¹ Non-accelerated filers are now required to include an auditor's report on the effectiveness of internal control over financial reporting beginning with their annual reports for fiscal years ending on or after June 15, 2010 instead of December 15, 2009.

The extension means that small public companies (non-accelerated filers) with a December 31, 2009 calendar year-end will not be required to have an auditor's report on the effectiveness of internal controls over financial reporting until December 31, 2010.

A previous one-year extension was granted to allow the SEC's Office of Economic Analysis to complete a study of whether guidance provided to company managers and auditors in 2007 effectively reduced the compliance costs. That study was completed in September, 2009, and showed that the cost of Section 404 compliance decreased following the SEC's 2007 reforms.

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¹ Non-accelerated filers are those with a public float below \$75 million or that fail to meet other criteria for an accelerated filer based on reporting characteristics. Details about the extension are cited in SEC Press Release No. 2009-213, Small Public Companies to Begin Providing Audited Assessment of Internal Controls Over Financial Reporting in Nine Months, October 2, 2009, available at www.sec.gov.



SEC Chairman Mary L. Schapiro and Commissioner Luis A. Aguilar said that there will be no more extensions for section 404(b) compliance. The SEC approved the current extension because it published its internal control study less than three months before the December 15, 2009 deadline. The SEC said that small public companies and their auditors needed additional time to plan for the Section 404(b) requirements.

Non-accelerated filers still must comply with Section 404(a), which requires companies to perform their own assessments of internal control.

Registrants should not treat the descriptive and summary statements in this newsletter as a substitute for any SEC proposals, rules, or requirements. When complying with related filing requirements, registrants should consult the text of all relevant final rules and requirements, consider their particular circumstances, and consult their accounting and legal advisors.

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