(Original Signature of Member)

107TH CONGRESS
2D SESSION

H. R. 3970

IN THE HOUSE OF REPRESENTATIVES

Mr. DINGELL (for himself, [insert attached list of cosponsors]) introduced the following bill; which was referred to the Committee on _____

A BILL

To improve the setting of accounting standards by the Financial Accounting Standards Board, to provide sound and uniform accounting and financial reporting for public utilities, to clarify the responsibility of issuers for the transparency and honesty of their financial statements and reports, and to enhance the governance of the accounting profession.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

ORIGINAL COSPONSORS
THE TRUTH AND ACCOUNTABILITY IN ACCOUNTING ACT

John D. Dingell (MI)
Edolphus Towns (NY)
Edward J. Markey (MA)
Diana DeGette (CO)
Thomas M. Barrett (WI)
Eliot L. Engel (NY)

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 "Truth and Accountability in Accounting Act of 2002".
4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FINANCIAL ACCOUNTING STANDARDS BOARD RESOLUTION OF ACCOUNTING STANDARDS ISSUES

Sec. 101. Findings.
Sec. 102. Review and evaluation.
Sec. 103. Response by Financial Accounting Standards Board.
Sec. 104. GAO evaluation of review mechanism.

TITLE II—ACCOUNTING AND FINANCIAL REPORTING BY CERTAIN PUBLIC UTILITIES

Sec. 201. Rulemaking on exemptions, waivers, etc.
Sec. 202. Report to Congress on implementation.
Sec. 203. Annual report.

TITLE III—CERTIFICATION OF FINANCIAL STATEMENTS BY CORPORATE OFFICERS

Sec. 301. Certification required.

TITLE IV—ACCOUNTING PROFESSION GOVERNANCE

Sec. 401. Purpose.
Sec. 402. Definitions.
Sec. 403. Establishment of the Independent National Board of Accountancy.
Sec. 404. Registration with the Board.
Sec. 405. Duties of the Board.
Sec. 406. Auditor independence.
Sec. 407. Investigations and disciplinary proceedings.
Sec. 408. Securities and Exchange Commission oversight of the Board.
Sec. 409. Foreign public accounting firms.
Sec. 410. Transition.

TITLE V—PRESERVATION OF AUTHORITY

Sec. 501. Securities and Exchange Commission authority not impaired.

TITLE I—FINANCIAL ACCOUNTING STANDARDS BOARD RESOLUTION OF ACCOUNTING STANDARDS ISSUES

SEC. 101. FINDINGS.

The Congress finds the following:

(1) Transparent accounting plays an important role in maintaining the efficiency and integrity of our capital markets.

(2) Investors, creditors, and other consumers of financial reports rely heavily on credible, transparent, and comparable financial information.

(3) It is in the public interest and appropriate for the protection of investors that accounting standards continue to be developed by an independent private sector organization that has an open, thorough, and credible process for the promulgation of generally accepted accounting standards.

(4) To achieve this goal, it is necessary and appropriate to provide a mechanism for the review of the funding and standard-setting process of the Financial Accounting Standards Board, the independent private-sector entity whose mission is to establish and improve standards of financial account-

1 ing and reporting for investors, creditors, and other
2 consumers of financial reports.

3 **SEC. 102. REVIEW AND EVALUATION.**

4 (a) ANNUAL REVIEW.—The Securities and Exchange
5 Commission shall conduct an annual review of the impact
6 of unresolved accounting standards issues on the clarity,
7 transparency, and quality of financial reporting by pub-
8 licly traded companies. In conducting such review, the
9 Commission shall consider—

10 (1) the current state of financial reporting by
11 publicly traded companies on such unresolved ac-
12 counting standards issues, including the diversity of
13 current practices;

14 (2) the materiality of any changes to financial
15 results from changing these practices;

16 (3) the international standards of accounting
17 and financial reporting on such unresolved account-
18 ing standards issues; and

19 (4) such other factors as the Commission deems
20 necessary or appropriate.

21 (b) UNRESOLVED ACCOUNTING STANDARDS
22 ISSUES.—For the purposes of this section, the term "un-
23 resolved accounting standards issue" means the open
24 agenda items of the Financial Accounting Standards
25 Board and the Financial Accounting Standards Board's

1 Emerging Issues Task Force, and any other issues that
2 the Securities and Exchange Commission has rec-
3 ommended be added to that agenda.

4 (c) REPORT REQUIRED.—The Commission shall an-
5 nually submit to the Committee on Energy and Commerce
6 of the House of Representatives, the Committee on Bank-
7 ing, Housing, and Urban Affairs of the Senate, and the
8 Financial Accounting Standards Board a report on the re-
9 sults of the review required by subsection (a). Such report
10 shall include—

11 (1) an identification of the unresolved account-
12 ing standards issues that are the most significant in
13 terms of their effect on the clarity, transparency,
14 and quality of financial reporting by publicly traded
15 companies;

16 (2) the different alternatives available for the
17 resolution of such accounting standards issues;

18 (3) a prioritization of such issues based on the
19 perceived needs of investors, creditors, and other
20 consumers of financial reports;

21 (4) the resources required for such resolution,
22 and the resources likely to be available for such reso-
23 lution;

1 (5) an evaluation on the progress made in the
2 resolution of issues identified in prior annual re-
3 ports; and
4 (6) such other information as the Commission
5 deems necessary or appropriate.

6 **SEC. 103. RESPONSE BY FINANCIAL ACCOUNTING STAND-**
7 **ARDS BOARD.**

8 (a) RESPONSE REQUIRED.—Within 60 days after re-
9 ceiving a report by the Securities and Exchange Commis-
10 sion under section 102(c), the Financial Accounting
11 Standards Board shall submit to the Commission, the
12 Committee on Energy and Commerce of the House of
13 Representatives, and the Committee on Banking, Hous-
14 ing, and Urban Affairs of the Senate a response to such
15 report.

16 (b) CONTENTS OF RESPONSE.—The response re-
17 quired by subsection (a) shall include an analysis of each
18 of the conclusions contained in the report pursuant to
19 paragraphs (1) through (6) of section 102(c). Such re-
20 sponse shall also include—
21 (1) an analysis by the Board of the appro-
22 priateness of each of the unresolved accounting
23 standards issues identified pursuant to section
24 102(c)(1);

1 (2) the plans of the Board to attempt to resolve
2 the unresolved accounting standards issues identified
3 in pursuant to section 102(c)(1);
4 (3) the alternatives that the Board intends to
5 pursue for the resolution of such accounting stand-
6 ards issues;
7 (4) the timetable by which the Board will seek
8 to resolve such issues;
9 (5) the resources the Board will require for
10 such resolution, and the resources likely to be avail-
11 able for such resolution;
12 (6) reasons for any delays in accomplishing the
13 timetables described in previous responses of the
14 Board under this section; and
15 (7) such other information as the Financial Ac-
16 counting Standards Board deems necessary or ap-
17 propriate.
18 **SEC. 104. GAO EVALUATION OF REVIEW MECHANISM.**
19 (a) EVALUATION REQUIRED.—The Comptroller Gen-
20 eral shall conduct an ongoing evaluation of the process es-
21 tablished by sections 102 and 103 of this title for the iden-
22 tification and resolution of accounting standards issues.
23 (b) REPORTS.—
24 (1) INTERIM REPORT.—Within 2 years after
25 the date of enactment of this Act, the Comptroller

1 General shall submit an interim report on the eval-
2 uation required by subsection (a) to the Committee
3 on Commerce of the House of Representatives and
4 the Committee on Banking of the Senate.

5 (2) FINAL REPORT.—The Comptroller General
6 shall submit a final report on such evaluations to
7 such Committees within 5 years after such date of
8 enactment.

9 (3) CONTENTS OF REPORTS.—Each of such re-
10 ports shall contain—

11 (A) an analysis of whether the process is
12 correctly identifying the current unresolved ac-
13 counting standards issues;

14 (B) an analysis of whether the process is
15 facilitating the efficient resolution of these un-
16 resolved accounting standards issues;

17 (C) such recommendations for legislative
18 changes in the requirements of this title as the
19 Comptroller General considers appropriate; and

20 (D) such other information as the Comp-
21 troller General deems necessary or appropriate.

TITLE II—ACCOUNTING AND FINANCIAL REPORTING BY CERTAIN PUBLIC UTILITIES

SEC. 201. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

"SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.

"(a) RULE REQUIRED FOR CERTAIN WAIVERS, EXEMPTIONS, ETC.— Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

"(b) MORATORIUM ON CERTAIN WAIVERS, EXEMPTIONS, ETC.—After the date of enactment of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or ab-

1 breviated form of compliance with the requirements of sec-
2 tion 204, 301, 304, or 305 (including any prospective
3 blanket order) until after the rule promulgated under sub-
4 section (a) has taken effect.

5 "(c) PREVIOUS FERC ACTION.—The Commission
6 shall undertake a review, by rule or order, of each action
7 described in subsection (a) that was taken before the date
8 of enactment of this section. No such action may continue
9 in force and effect after the date 18 months after the date
10 of enactment of this section unless the Commission finds
11 that such action complies with the rule under subsection
12 (a).

13 "(d) EXEMPTION UNDER 204(F) NOT APPLICABLE.—
14 For purposes of this section, in applying section 204, the
15 provisions of section 204(f) shall not apply.".

16 **SEC. 202. REPORT TO CONGRESS ON IMPLEMENTATION.**

17 Within 12 months of the date of the enactment of
18 this Act, the Federal Energy Regulatory Commission shall
19 report to the Committee on Energy and Commerce of the
20 United States House of Representatives and the Com-
21 mittee on Energy and Natural Resources of the United
22 States Senate on what specific measures the Commission
23 has taken to comply with the amendments made by section
24 201.

1 **SEC. 203. ANNUAL REPORT.**

2 The Federal Energy Regulatory Commission shall
3 provide an annual report to the Committee on Energy and
4 Commerce of the United States House of Representatives
5 and the Committee on Energy and Natural Resources of
6 the United States Senate summarizing the financial and
7 operating condition of power marketers. Such report shall
8 summarize the information provided to the Commission in
9 periodic and special reports filed by power marketers, and
10 include an analysis by the Commission of key trends or
11 issues affecting the capital structure and financial condi-
12 tion of such companies, including use of leverage, deriva-
13 tives transactions, and other material information.

14 TITLE III—CERTIFICATION OF 15 FINANCIAL STATEMENTS BY 16 CORPORATE OFFICERS

17 **SEC. 301. CERTIFICATION REQUIRED.**

18 Section 13 of the Securities Exchange Act of 1934
19 (15 U.S.C. 78m) is amended by adding at the end the
20 following new subsection:

21 "(i) CERTIFICATION OF FINANCIAL STATEMENTS BY
22 CORPORATE OFFICERS.—

23 "(1) STATEMENT TO SHAREHOLDERS.—Any
24 periodic report filed under this section shall include,
25 in accordance with such rules as the Commission
26 may prescribe under this section, a statement ad-

1 dressed to the investors and potential investors in
2 the issuer and signed by the chief executive officer
3 and chief financial officer of the issuer that attests
4 that—
5 "(A) the financial statements contained in
6 such report (including the balance sheet, income
7 statement, and cash flow statement) have been
8 prepared by the management of the issuer;
9 "(B) the signing officers believe and affirm
10 that such financial statements fairly present to
11 investors, with clarity and completeness, the
12 issuer's financial position and performance for
13 the reporting period in accordance with gen-
14 erally accepted accounting principles and the
15 disclosure requirements of this title and the
16 rules and regulations thereunder; and
17 "(C) the issuer's internal controls and in-
18 ternal audit procedures are consistent with best
19 current accounting practices and fully comply
20 with subsection (b)(2) of this section.
21 "(2) NO DELEGATION.—The responsibility to
22 sign the statements required by paragraph (1) may
23 not be delegated to any officer, employee, or agent
24 of the issuer, except that if an issuer does not have
25 a chief executive officer or chief financial officer (as

1 defined in rules prescribed by the Commission under
2 this subsection), such rules may permit an specified
3 alternative officer to sign such statements.".

4 TITLE IV—ACCOUNTING
5 PROFESSION GOVERNANCE

6 **SEC. 401. PURPOSE.**

7 The purposes of this title are—
8 (1) to create a new organization, subject to
9 Commission oversight, with adequate authority and
10 resources—
11 (A) to register public accounting firms that
12 furnish accountant's reports with respect to fi-
13 nancial statements, reports, or other documents
14 required to be filed with the Commission under
15 the securities laws;
16 (B) to promulgate and enforce compliance
17 with quality control and auditing standards de-
18 signed to improve the quality of audits con-
19 ducted by such firms;
20 (C) to administer a continuing program of
21 inspection of the accounting and auditing prac-
22 tices of public accounting firms registered with
23 the Board; and
24 (D) to investigate and discipline appro-
25 priately such firms, and persons associated with

1 such firms, who violate this title, the securities
2 laws, the rules and regulations thereunder,
3 rules adopted by the Board, or professional
4 standards;
5 (2) to require public accounting firms fur-
6 nishing any report with respect to financial state-
7 ments, reports, or other documents required to be
8 filed with the Securities and Exchange Commission
9 under the securities laws to be registered with that
10 Board; and
11 (3) to authorize the Board to establish quality
12 control and auditing standards for audits of public
13 companies, administer an audit and professional
14 services inspection program, and undertake inves-
15 tigations and disciplinary proceedings with respect to
16 public accounting firms and persons associated with
17 such firms.
18 **SEC. 402. DEFINITIONS.**
19 As used in this title, unless the context otherwise
20 requires—
21 (1) ACCOUNTANT'S REPORT.—The term "ac-
22 countant's report" means a document in which a
23 public accounting firm identifies a financial state-
24 ment, report, or other document and sets forth its
25 opinion regarding such financial statement, report,

1 or other document, or an assertion that an opinion
2 cannot be expressed.
3 (2) BOARD.—The term "Board" means the
4 Independent National Board of Accountancy estab-
5 lished under this title.
6 (3) COMMISSION.—The term "Commission"
7 means the Securities and Exchange Commission.
8 (4) INTERMEDIARY.—The term "intermediary"
9 means those parties who may advise 1 or more prin-
10 cipals to a transaction and may include, but are not
11 limited to, attorneys and investment, merchant, and
12 commercial bankers.
13 (5) PERSON ASSOCIATED WITH A PUBLIC AC-
14 COUNTING FIRM.—The term "person associated with
15 a public accounting firm" means any individual pro-
16 prietor, partner, shareholder, principal, professional
17 employee, or any other natural person or entity
18 who—
19 (A) shares in the profits of a public ac-
20 counting firm; or
21 (B) engages in any conduct or practice in
22 connection with the preparation of any account-
23 ant's report with respect to any financial state-
24 ment, report, or other document required to be

1 filed with the Commission under the securities
2 laws.
3 (6) PROFESSIONAL STANDARDS.—The term
4 "professional standards" means generally accepted
5 accounting principles, generally accepted auditing
6 standards, generally accepted standards for attesta-
7 tion engagements, generally accepted quality control
8 policies and procedures, and any other standards re-
9 lated to the preparation of financial statements or
10 accountant's reports, or to auditor ethics and inde-
11 pendence, and promulgated by the Commission, the
12 Board, or by a standard setting body generally rec-
13 ognized or endorsed by the Commission or the
14 Board.
15 (7) PUBLIC ACCOUNTING FIRM.—The term
16 "public accounting firm" means—
17 (A) a sole proprietorship, incorporated as-
18 sociation, partnership, corporation, limited li-
19 ability company, limited liability partnership, or
20 other legal entity that is engaged in the practice
21 of public accounting or furnishing reports with
22 respect to financial statements, reports, or
23 other documents filed with the Commission;
24 (B) in the event an entity described in sub-
25 paragraph (A) leases or otherwise acquires on a

1 temporary or continuous basis the services of
2 personnel or other assets employed full- or part-
3 time by another entity (the "lessor"), to the ex-
4 tent so designated by the Board, the lessor and
5 the lessor's board of directors, management,
6 employees, and shareholders of 10 percent or
7 more of the lessor's equity securities;
8 (C) in the event an entity described in sub-
9 paragraph (A) or an affiliate of such entity has
10 public shareholders, to the extent so designated
11 by the Board, those public shareholders and
12 their affiliates; and
13 (D) such other affiliates of an entity de-
14 scribed in subparagraph (A) as designated by
15 the Board.
16 (8) SECURITIES LAW.—The term "securities
17 laws" has the same meaning as prescribed in section
18 3(a)(47) of the Securities Exchange Act of 1934.
19 (9) STATE.—The term "State" means any
20 State of the United States, the District of Columbia,
21 Puerto Rico, the Virgin Islands, or any other posses-
22 sion of the United States.

1 **SEC. 403. ESTABLISHMENT OF THE INDEPENDENT NA-**
2 **TIONAL BOARD OF ACCOUNTANCY.**

3 (a) ESTABLISHMENT OF THE BOARD.—No later than
4 180 days after the date of the enactment of this Act, the
5 Commission shall establish an Independent National
6 Board of Accountancy to perform the duties set forth in
7 this title, which shall be located in the District of Colum-
8 bia.

9 (b) MEMBERSHIP OF THE BOARD.—

10 (1) COMPOSITION.—The Board shall be com-
11 posed of 5 members. Members shall be prominent in-
12 dividuals of integrity and reputation who have a
13 commitment to the interests of investors and the
14 public. No more than 2 of the 5 members may be
15 present or former certified public accountants who
16 are eligible if they—

17 (A) are not currently in public practice;

18 (B) have not for a period of at least 3
19 years been associated with a public accounting
20 firm; and

21 (C) do not currently share in the profits of
22 or receive payments from such a firm.

23 (2) APPOINTMENT.—The Chair and members
24 of the Board shall be appointed by the Commission
25 from a list of recommended individuals provided
26 under paragraph (3).

1 (3) RECOMMENDATIONS.—At the time of any
2 vacancy, the Comptroller General shall submit to the
3 Commission a list of at least 3 individuals who are
4 eligible for service on the Board or as Chair and who
5 are recommended by the Comptroller General. The
6 Commission may ask the Comptroller General to
7 recommend additional individuals.
8 (4) FULL-TIME SERVICE.—All members of the
9 Board shall serve on a full-time basis, severing all
10 ties with their former firms or employers, except as
11 authorized by the Commission.
12 (5) TERMS OF OFFICE.—Each member of the
13 Board shall hold office for a term of 5 years and
14 until a successor is appointed, except that—
15 (A) any member appointed to fill a vacancy
16 occurring prior to the expiration of the term of
17 a predecessor shall be eligible to serve for the
18 remainder of that term; and
19 (B) the terms of office of the initial Board
20 members shall expire, as designated by the
21 Commission at the time of appointment, 1 at
22 the end of 1 year, 1 at the end of 2 years, 1
23 at the end of 3 years, 1 at the end of 4 years,
24 and 1 at the end of 5 years after the establish-
25 ment of the Board.

1 (6) MULTIPLE TERMS.—A member may be re-
2 appointed to the Board, but in no instance may a
3 member serve more than 2 terms.
4 (7) REMOVAL.—A member of the Board may be
5 removed from office for cause prior to the expiration
6 of his or her term by either a majority vote of the
7 other members of the Board, subject to the approval
8 of the Commission, or by the Commission pursuant
9 to section 408(f)(2) of this title.
10 (c) OPERATION OF THE BOARD.—
11 (1) RULES.—The Board shall propose and
12 adopt rules—
13 (A) to provide for the operation and ad-
14 ministration of the Board, and the compensa-
15 tion of the members of the Board;
16 (B) to provide for the appointment and
17 compensation of such accountants, attorneys,
18 employees, and consultants as may be necessary
19 or appropriate to carry out the Board's func-
20 tions under this title;
21 (C) to provide for the registration of public
22 accounting firms with the Board pursuant to
23 section 404 of this title; and
24 (D) to enter into contracts, incur expenses,
25 and take such other actions as may be nec-

1 essary or appropriate for it to perform its du-
2 ties under this title.
3 (2) COMPENSATION.—Members of the Board
4 shall be compensated at a level comparable to simi-
5 lar professional positions in the private sector. Sala-
6 ries of members of the Board shall be subject to an-
7 nual review and approval by the Commission.
8 (d) REGISTRATION AND ANNUAL FEES.—The Board
9 shall assess and collect a registration fee and annual dues
10 from each public accounting firm registered with the
11 Board. The fees shall be subject to the annual review and
12 approval of the Commission. Such fees and dues shall be
13 assessed at a level sufficient to recover the costs and ex-
14 penses of the Board and to permit the Board to operate
15 on a self-funding basis. The amount of fees and dues for
16 each public accounting firm shall be based upon—
17 (1) the annual revenues of such firm from ac-
18 counting, auditing, and other professional services
19 provided to Commission registrants;
20 (2) the number of persons associated with the
21 firm;
22 (3) the number of entities for which the firm
23 furnishes accountant's reports with respect to finan-
24 cial statements, reports, or other documents required

1 to be filed with the Commission under the securities
2 laws; and
3 (4) such other criteria as the Board, with the
4 approval of the Commission, may establish.
5 (e) SPECIAL FEES.—The Board may prescribe fees,
6 and collect its costs incurred, in connection with inspec-
7 tions and disciplinary actions conducted in accordance
8 with this title provided that such fees and costs shall fairly
9 reflect the cost to the Board of providing such services.
10 (f) ANNUAL REPORT.—The Board shall submit to
11 the Commission for its review and approval, an annual re-
12 port and budget. The annual report shall include a de-
13 scription of the Board's activities, its audited financial
14 statements and such other matters as the Board or the
15 Commission considers appropriate. The Board shall also
16 submit its annual report to Congress.
17 **SEC. 404. REGISTRATION WITH THE BOARD.**
18 (a) MANDATORY REGISTRATION WITH THE
19 BOARD.—Beginning 1 year after the date of the establish-
20 ment of the Board, it shall be unlawful for any public ac-
21 counting firm to furnish an accountant's report with re-
22 spect to any financial statement, report or other document
23 required to be filed with the Commission under the securi-
24 ties laws unless such firm—
25 (1) is registered with the Board; and

1 (2) has paid all applicable registration and an-
2 nual fees pursuant to section 403(d) of this title.
3 (b) APPLICATION FOR REGISTRATION.—A public ac-
4 counting firm may be registered under this title by filing
5 with the Board an application for registration in such
6 form and containing such information as the Board, by
7 rule, may prescribe. Each application shall include the fol-
8 lowing:
9 (1) CLIENTS AND CLIENT FEES.—The names of
10 all clients of the public accounting firm for which
11 the firm furnishes accountant's reports with respect
12 to financial statements, reports, or other documents
13 required to be filed with the Commission and, for
14 each such client, the annual fees received from such
15 client by such firm in connection with—
16 (A) performance of the annual audit and
17 quarterly interim reviews of the client's finan-
18 cial statements filed with the Commission under
19 the securities laws;
20 (B) other accounting and auditing services;
21 (C) tax services;
22 (D) information technology consulting
23 services; and
24 (E) all other consulting or advisory serv-
25 ices in such detail as the Board shall determine.

1 (2) FIRM FINANCIAL INFORMATION.—Financial
2 information of the public accounting firm for its
3 most recent fiscal year, including its annual reve-
4 nues in total and the aggregate from each of ac-
5 counting and auditing, tax and other professional
6 services provided to Commission registrants, and the
7 firm's total assets, total liabilities and net equity.
8 (3) INSURANCE INFORMATION.—The names of
9 the liability insurance carrier, if any, of the public
10 accounting firm and of persons associated with the
11 public accounting firm.
12 (4) QUALITY CONTROL.—A copy of the public
13 accounting firm's policies and procedures with re-
14 spect to quality control of its accounting and audit-
15 ing practice.
16 (5) ASSOCIATED PERSONS.—A list of the per-
17 sons associated with the public accounting firm, the
18 license or certification number of such person, and
19 a brief statement of each such person's education
20 and experience.
21 (6) PENDING PROCEEDINGS.—Information re-
22 lating to criminal, civil, or administrative actions or
23 disciplinary proceedings pending against the firm or
24 any person associated with the firm in connection
25 with any accountant report furnished by such firm.

1 (7) SUCCESSOR AUDIT APPOINTMENTS.—A list
2 of issuers for which the public accounting firm has
3 been appointed as a successor auditor in the most
4 recently completed fiscal year and where unresolved
5 disagreements existed between the successor and
6 predecessor auditor on the application of generally
7 accepted accounting principles. The list shall also de-
8 scribe in adequate detail the nature of such disagree-
9 ments.
10 (8) ADDITIONAL INFORMATION.—Such other
11 information as the Board or the Commission con-
12 siders necessary or appropriate.
13 (c) PERIODIC REPORTS.—Annually, or within 15
14 business days with respect to matters reported pursuant
15 to paragraphs (6) and (7) of subsection (b) of this section,
16 or more frequently as the Board may prescribe, each pub-
17 lic accounting firm registered with the Board shall submit
18 reports to the Board updating the information contained
19 in its application for registration and containing such ad-
20 ditional information as the Board may prescribe. Such an-
21 nual or periodic reports, or parts thereof as designated
22 by the Board or the Commission, shall be available for
23 public inspection, including inspection by means of the
24 Internet.

1 (d) EXEMPTIONS AND DELEGATION.—The Commis-
2 sion, by rule, upon its own motion or upon application,
3 may conditionally or unconditionally exempt any public ac-
4 counting firm or any accountant's report, or any class of
5 public accounting firms or any class of accountant's re-
6 ports, from any provisions of this title or the rules or regu-
7 lations thereunder, if the Commission finds that such ex-
8 emption is consistent with the public interest, the protec-
9 tion of investors, and the purposes of this title. The Com-
10 mission may delegate to the Board its authority, including
11 its remedial and disciplinary authority with respect to pub-
12 lic accounting firms, persons associated with public ac-
13 counting firms, and an accounting person associated with
14 an issuer.

15 **SEC. 405. DUTIES OF THE BOARD.**

16 (a) QUALITY CONTROL STANDARDS.—The Board
17 shall seek to promote high professional standards among
18 public accounting firms registered with the Board, to im-
19 prove the quality of audit services provided by such firms,
20 and, in general, to protect investors and promote the pub-
21 lic interest. In furtherance of these goals, the Board shall
22 take the following actions:

23 (1) PROMULGATION AND ENFORCEMENT.—
24 (A) AUTHORITY.—Promulgate and enforce
25 compliance with such standards of quality con-

1 trol as the Board, by rule, shall prescribe as
2 necessary or appropriate in the public interest
3 or for the protection of investors in connection
4 with the preparation and issuance by public ac-
5 counting firms registered with the Board of ac-
6 countant's reports with respect to financial
7 statements, reports, or other documents re-
8 quired to be filed with the Commission under
9 the securities laws. Such standards of quality
10 control shall include, among such other require-
11 ments that the Board may prescribe, policies
12 and procedures for the following:
13 (i) The monitoring by the public ac-
14 counting firm of its professional ethics in-
15 cluding its independence from its audit cli-
16 ents.
17 (ii) The assignment of personnel to
18 engagements.
19 (iii) Consultation within the firm or
20 with other accountants on accounting and
21 auditing questions.
22 (iv) The supervision of audit work.
23 (v) The hiring, professional develop-
24 ment, and advancement of personnel.

1 (vi) The acceptance and continuation
2 of clients.
3 (vii) The internal inspection of the
4 firm's own compliance with such policies
5 and procedures.
6 (B) MANDATORY STANDARDS.—Such
7 standards shall include the requirements that
8 each public accounting firm registered with the
9 Board—
10 (i) prepare and maintain for a period
11 of no less than 7 years, audit work papers
12 and other information related to any ac-
13 countant's report, in sufficient detail to
14 support the conclusions reached in such ac-
15 countant's report;
16 (ii) provide a "concurring" or "sec-
17 ond" partner review of such audit work pa-
18 pers and other related information by a
19 qualified person (as prescribed by the
20 Board) associated with the public account-
21 ing firm, other than the person in charge
22 of the audit, or by an independent reviewer
23 (as prescribed by the Board); and
24 (iii) secure the concurring approval of
25 such qualified person or independent re-

1 viewer as a necessary prerequisite to the
2 issuance of the accountant's report.
3 (2) INSPECTIONS.—
4 (A) IN GENERAL.—Conduct a continuing
5 program of inspections of each public account-
6 ing firm registered with the Board to assess
7 compliance by such firm, and by persons associ-
8 ated with such firm, with applicable provisions
9 of this title, the securities laws, the rules and
10 regulations thereunder, the rules adopted by the
11 Board, and professional standards.
12 (B) ONGOING INSPECTIONS.—Inspections
13 of each firm that audits more than 100 issuers
14 shall be conducted on an ongoing annual basis,
15 and all other public accounting firms no less
16 than at least once every 3 years, and shall,
17 among other matters that the Board may pre-
18 scribe, identify and report any act or practice,
19 or omission to act, by such firm, or by any per-
20 son associated with such firm, that is found to
21 be in violation of any such provision.
22 (C) REQUIRED EVALUATIONS.—In con-
23 ducting such inspections, the Board shall,
24 among other things, inspect selected audit and
25 review engagements performed at various of-

1 fices and by various persons associated with the
2 public accounting firm under inspection, and, in
3 connection with the inspection, evaluate—
4 (i) whether the firm's quality control
5 system is appropriate;
6 (ii) whether the firm's policies and
7 procedures are adequately documented and
8 communicated to its personnel;
9 (iii) whether there is compliance with
10 such policies and procedures sufficient to
11 provide reasonable assurance of conformity
12 with professional standards; and
13 (iv) whether professional accounting,
14 auditing, and independence and ethics
15 standards were complied with.
16 (D) REPORT OF FINDINGS.—In connection
17 with each review, the Board, shall prepare a re-
18 port of its findings, and such report, accom-
19 panied by any letter of comments by the Board
20 or reviewer and any letter of response from the
21 firm under review, shall be made available to
22 the public.
23 (3) DISCIPLINE.—Provide that public account-
24 ing firms registered with the Board, and persons as-
25 sociated with such firms, shall be appropriately dis-

1 ciplined in accordance with the provisions of section
2 407 of this title for violation of any provision of this
3 title, the securities laws, the rules or regulations
4 thereunder, the rules adopted by the Board, or pro-
5 fessional standards.

6 (4) RECORDS MAINTENANCE.—Prescribe
7 records to be made and kept by public accounting
8 firms and the periods for which, and physical loca-
9 tion where, such records shall be kept to facilitate
10 the reviews required under this title.

11 (b) AUDITING STANDARDS.—The Board shall pro-
12 mulgate and enforce compliance with such auditing stand-
13 ards as the Board, by rule, shall prescribe as necessary
14 or appropriate in the public interest or for the protection
15 of investors in connection with the preparation and
16 issuance by public accounting firms registered with the
17 Board of accountants' reports with respect to financial
18 statements, reports, or other documents required to be
19 filed with the Commission under the securities laws.

20 (c) OTHER DUTIES.—The Board shall perform such
21 other duties or functions as the Commission determines
22 are necessary or appropriate in the public interest for the
23 protection of investors and to carry out the purposes of
24 this title.

1 **SEC. 406. AUDITOR INDEPENDENCE.**

2 (a) RULES; CRITERIA.—The Commission shall have
3 the authority and responsibility for promulgating and in-
4 terpreting auditor independence rules. For purposes of the
5 securities laws, a public accounting firm shall not be
6 deemed independent of an audit client if any of the fol-
7 lowing conditions or circumstances applies:

8 (1) PRIOR EMPLOYMENT OF OFFICERS.—An
9 issuer's chief executive officer, chief financial officer,
10 controller or principal accounting officer, or any
11 equivalent position was a person associated with the
12 public accounting firm during any period in the most
13 recent 2 years, on which the public accounting firm
14 sets forth its independent accountant's report on the
15 financial statements required to be filed with the
16 Commission under the securities laws.

17 (2) NON-AUDIT SERVICE.—

18 (A) LIMITATION.—The auditor has pro-
19 vided services in any year other than those re-
20 quired by professional standards in connection
21 with rendering an independent accountant's
22 audit or review report on the financial state-
23 ments of the issuer, and the audit committee
24 has not preapproved those services that were in-
25 dividually or in the aggregate in excess of 20
26 percent of the fees for professional services for

1 the audit and review of the annual and interim
2 financial statements, and in doing so, made a
3 determination they were in the best interest of
4 investors and disclosed that determination to
5 the stockholders of the issuer.
6 (B) IMPLEMENTATION.—The Board may
7 issue rules for purposes of implementing this
8 paragraph, and exempting services provided by
9 the auditor from its provision, if the Board
10 makes a finding that the services provided by
11 the auditor are in the best interests of investors
12 and will improve the quality of financial report-
13 ing and independent audits.
14 (3) LACK OF AUDITOR ROTATION.—The firm
15 has served as the auditor of an issuer for more than
16 7 consecutive years during which the auditor issued
17 its independent accountant's report on the financial
18 statements of the issuer. However, an accounting
19 firm shall be considered to be independent if after
20 serving as the auditor of the issuer for 7 consecutive
21 years, it has not issued its accountant's report on
22 the financial statements of the issuer for at least 2
23 consecutive years, subsequent to the 7-year term as
24 auditor.
25 (4) TRANSACTION DESIGN AND EVALUATION.—

1 (A) ADVICE OR CONSULTATION.—With re-
2 spect to any transaction that is accounted for
3 in the issuer's audited or reviewed financial
4 statements, and which is included in the trans-
5 actions on which the firm issues its audit opin-
6 ion or review report on the issuer's financial
7 statements, the firm—
8 (i) advised or consulted the issuer or
9 an intermediary in the design or struc-
10 turing of such transaction; or
11 (ii) provided the issuer or inter-
12 mediary a report on the application of gen-
13 erally accepted accounting principles or
14 Federal tax laws or regulations to the
15 transaction.
16 (B) EXCEPTION.—The firm's independence
17 shall not be deemed to be impaired if the public
18 accounting firm provides, in the performance of
19 an audit engagement, a report to an audit cli-
20 ent on the application of generally accepted ac-
21 counting principles or Federal tax laws or regu-
22 lations to a specific transaction on which the
23 auditor has not otherwise advised or consulted
24 on the design or structuring.

1 (5) NOT SUPERVISED BY AUDIT COMMITTEE.—
2 The firm is not appointed by, and does not report
3 directly to, the audit committee of the board of di-
4 rectors, or, in the absence of an audit committee, the
5 board committee performing equivalent functions or
6 the entire board of directors.
7 (b) BOARD ACTIONS.—The Board shall seek to pro-
8 mote the independence of auditors by—
9 (1) inspecting the compliance with professional
10 standards by public accounting firms registered with
11 the Board, pursuant to paragraphs (1), (2), and (3)
12 of section 405(a); and
13 (2) appropriately disciplining the firm or per-
14 sons associated with such firm in accordance with
15 the provisions of section 407 of this title for viola-
16 tions of provisions of this title, the securities laws,
17 the rules or regulations thereunder, the rules adopt-
18 ed by the Board or professional standards.
19 **SEC. 407. INVESTIGATIONS AND DISCIPLINARY PRO-**
20 **CEEDINGS.**
21 (a) INVESTIGATIONS AND DISCIPLINARY PRO-
22 CEEDINGS.—The Board shall establish fair procedures for
23 investigating and disciplining public accounting firms reg-
24 istered with the Board, and persons associated with such
25 firms, for violations of this title, the securities laws, the

1 rules or regulations thereunder, the rules adopted by the
2 Board, or professional standards.
3 (b) INVESTIGATION PROCEDURES.—
4 (1) GENERAL AUTHORITY.—The Board may
5 conduct an investigation of any act or practice, or
6 omission to act, by a public accounting firm reg-
7 istered with the Board, or by any person associated
8 with such firm, that may violate any applicable pro-
9 vision of this title, the securities laws, the rules or
10 regulations thereunder, the rules adopted by the
11 Board, or professional standards, whether such act,
12 practice, or omission is identified in a review con-
13 ducted in accordance with the provisions of section
14 405 of this title, is the subject of a criminal, civil,
15 or administrative action or disciplinary proceeding,
16 or otherwise is brought to the attention of the
17 Board. At the discretion of the Board, such an in-
18 vestigation, in light of the circumstances, may relate
19 to the entire public accounting firm, to 1 or more
20 persons associated with the firm, or to 1 or more of-
21 fices, engagements, or transactions of such firm.
22 (2) INCIDENTAL AUTHORITY.—For purposes of
23 an investigation under this section, the Board may,
24 in addition to such other actions as the Board deter-
25 mines to be necessary or appropriate—

1 (A) require the testimony of any person as-
2 sociated with a public accounting firm reg-
3 istered with the Board, with respect to any
4 matter which the Board considers relevant or
5 material to the investigation;
6 (B) require the production of audit work
7 papers and of any other document or informa-
8 tion in the possession of a public accounting
9 firm registered with the Board or any person
10 associated with such firm, wherever domiciled,
11 that the Board considers relevant or material to
12 the investigation, and may examine the books
13 and records of such firm to verify the accuracy
14 of any documents or information supplied; and
15 (C) require the testimony of, and produc-
16 tion of any document in the possession of, any
17 person, including any client of a public account-
18 ing firm registered with the Board, that the
19 Board considers relevant or material to the in-
20 vestigation.
21 (3) SANCTIONS.—Failure of any person to com-
22 ply with the requirements of this section shall be
23 subject to the same sanctions as are applicable for
24 any failure to produce information or testimony to
25 the Commission in the course of a formal investiga-

1 tion. In addition, the refusal of any person associ-
2 ated with a public accounting firm registered with
3 the Board to testify, or the refusal of any such per-
4 son, or of any public accounting firm, to produce
5 documents or otherwise cooperate with the Board in
6 connection with an investigation under this section,
7 shall be cause for the suspension or revocation of
8 registration of such public accounting firm, sus-
9 pending or barring such person from being associ-
10 ated with an issuer or a public accounting firm reg-
11 istered with the Board, or such other appropriate
12 sanction as the Board shall determine.
13 (4) REFERRAL TO COMMISSION.—The Board
14 may refer any other investigation to the Commission
15 as it deems appropriate. The Commission shall
16 evaluate any such matter referred to it by the Board
17 and shall take action with respect to the matter as
18 it deems necessary or appropriate.
19 (5) CONFIDENTIALITY OF INVESTIGATIONS.—
20 (A) INFORMATION CONFIDENTIAL.—Ex-
21 cept as provided in subparagraph (B), all re-
22 ports, memorandums, and other information
23 prepared or received by, and deliberations of,
24 the Board and its employees and agents in con-
25 nection with an investigation under this section

1 shall be confidential and privileged unless and
2 until presented in connection with a public pro-
3 ceeding or the public release by the Board of its
4 report of sanctions pursuant to subsection (d).
5 (B) AVAILABILITY TO OTHER AUTHORI-
6 TIES.—All information referred to in subpara-
7 graph (A) of this paragraph—
8 (i) shall be available to—
9 (I) the Commission and any
10 other Federal department or agency;
11 (II) the appropriate State licens-
12 ing board or boards; and
13 (III) Federal and State authori-
14 ties in connection with any criminal
15 investigation or proceeding; and
16 (ii) shall be admissible—
17 (I) in any civil action brought by
18 the Commission or any other Federal
19 department or agency, or by any such
20 State licensing board; and
21 (II) in any criminal action.
22 Nothing in this subsection shall authorize the
23 Board to withhold information from Congress.
24 (C) RELATION TO FOIA.—For purposes of
25 section 552 of title 5, United States Code, this

1 paragraph shall be considered a statute de-
2 scribed in section 552(b)(3)(B) of such title.
3 (6) INVESTIGATIVE IMMUNITY.—Any employee
4 of the Board engaged in carrying out an investiga-
5 tion under this section shall be immune from any
6 civil liability arising out of such investigation in the
7 same manner and to the same extent as an employee
8 of the Federal Government in similar circumstances.
9 (c) DISCIPLINARY PROCEDURES.—
10 (1) NOTICE AND HEARING.—In any proceeding
11 by the Board to determine whether a public account-
12 ing firm, or a person associated with such firm,
13 should be disciplined, the Board shall bring specific
14 charges, notify such firm or person of, and give such
15 persons or firm an opportunity to defend against,
16 such charges, and shall keep a record of the pro-
17 ceedings. All hearings under this subsection shall be
18 public unless otherwise ordered by the Board on its
19 own motion or after considering the motion of a
20 party.
21 (2) AVAILABLE REMEDIES.—If the Board finds
22 that a public accounting firm, or persons associated
23 with a public accounting firm, has engaged in any
24 act or practice, or omitted to act, in violation of this
25 title, the securities laws, the rules or regulations

1 thereunder, the rules adopted by the Board, or pro-
2 fessional standards, then the Board may impose
3 such disciplinary or remedial sanctions as it deems
4 appropriate, including—
5 (A) temporary or permanent revocation or
6 suspension of registration with the Board;
7 (B) temporary or permanent limitation of
8 activities, functions, or operations;
9 (C) civil money penalties;
10 (D) censure and, in the case of a person
11 associated with a public accounting firm, tem-
12 porary or permanent suspension or bar from
13 being associated with any public accounting
14 firm registered with the Board; or
15 (E) any other appropriate sanction.
16 (3) AUTHORIZED CIVIL PENALTIES.—
17 (A) DETERMINATION BY BOARD.—Subject
18 to subparagraphs (B) and (C), the Board may
19 impose, and shall determine the amount of, civil
20 money penalties in light of the facts and cir-
21 cumstances.
22 (B) IN GENERAL.—For each violation, the
23 amount of the penalty shall not exceed the
24 greater of $100,000 for a natural person or
25 $2,000,000 for any other persons.

1 (C) INCREASED PENALTIES.—Notwith-
2 standing subparagraph (B), the amount of pen-
3 alty for each such violation shall not exceed the
4 greater of $750,000 for a natural person or
5 $15,000,000 for any other persons, if the viola-
6 tion involved fraud, deceit, manipulation, or de-
7 liberate or reckless disregard of the regulatory
8 standard.
9 (4) STATEMENT OF SANCTION.—A determina-
10 tion by the Board to impose a disciplinary or reme-
11 dial sanction shall be supported by a statement set-
12 ting forth—
13 (A) any act or practice in which such firm
14 or person associated with such firm has been
15 found to have engaged, or which such firm or
16 person has been found to have omitted;
17 (B) the specific provision of this title, the
18 securities laws, the rules or regulations there-
19 under, the rules adopted by the Board, or pro-
20 fessional standards which any such act or prac-
21 tice, or omission to act, is deemed to violate;
22 and
23 (C) the sanction imposed and the reason
24 for that sanction.
25 (5) CONSEQUENCES OF SANCTION.—

1 (A) ASSOCIATION WITH FIRMS.—It shall
2 be unlawful for any person suspended or barred
3 from being associated with a public accounting
4 firm registered with the Board willfully to be-
5 come or remain associated with such a firm
6 without the consent of the Board or the Com-
7 mission. It shall be unlawful for any public ac-
8 counting firm registered with the Board to per-
9 mit such a person to become or remain associ-
10 ated with such a firm without the consent of
11 the Board or the Commission if such firm
12 knew, or, in the exercise of reasonable care
13 should have known, of such suspension or bar.
14 (5) ASSOCIATION WITH ISSUERS.—It shall be
15 unlawful for any person suspended or barred from
16 being associated with an issuer willfully to become,
17 or remain associated with such an issuer without the
18 consent of the Board or the Commission. It shall be
19 unlawful for any issuer to permit such a person to
20 become, or remain a person associated with such
21 issuer without the consent of the Board or the Com-
22 mission if such issuer knew, or, in the exercise of
23 reasonable care should have known, of such suspen-
24 sion or bar.
25 (d) REPORTING OF SANCTIONS.—

1 (1) REPORTING REQUIRED.—Whenever the
2 Board imposes a disciplinary sanction against a pub-
3 lic accounting firm or a person associated with a
4 public accounting firm or any other person, the
5 Board shall report the sanction to the Commission,
6 to the appropriate State or foreign licensing board
7 or boards with which such firm or person is licensed
8 or certified to practice public accounting, and to the
9 public.
10 (2) INFORMATION REQUIRED.—The information
11 required to be reported shall include—
12 (A) the name of the public accounting
13 firm, or accountant associated with an issuer,
14 against whom the sanction is imposed;
15 (B) a description of the acts or practices,
16 or omissions to act, upon which the sanction is
17 based;
18 (C) the nature of the sanction; and
19 (D) such other information respecting the
20 circumstances of the disciplinary action as the
21 Board deems appropriate.
22 (3) AVAILABILITY TO PUBLIC.—In order to
23 make the information required under paragraph (2)
24 available to the public, the Board shall—

1 (A) establish and maintain a toll-free tele-
2 phone listing and any other readily accessible
3 electronic process to receive inquiries regarding
4 such information; and
5 (B) respond promptly to such inquiries.

6 **SEC. 408. SECURITIES AND EXCHANGE COMMISSION OVER-**
7 **SIGHT OF THE BOARD.**

8 (a) PROPOSED RULE CHANGES.—
9 (1) FILING, PUBLICATION, AND COMMENT.—
10 The Board shall file with the Commission, in accord-
11 ance with such rules as the Commission may pre-
12 scribe, copies of any proposed rule or any proposed
13 change in, addition to, or deletion from the rules of
14 the Board (hereinafter collectively referred to as
15 "proposed rule change") accompanied by a concise
16 general statement of the basis and purpose of such
17 proposed rule change. Upon the filing of any pro-
18 posed rule change, the Commission shall publish a
19 public notice of the proposed rule change together
20 with the terms and substance of the proposed rule
21 change or a description of the subjects and issues in-
22 volved in the Federal Register. The Commission
23 shall give interested persons an opportunity to sub-
24 mit written data, views, and arguments concerning
25 such proposed rule change. No proposed rule

1 changes shall take effect unless approved by the
2 Commission or otherwise permitted in accordance
3 with the provisions of this section.
4 (2) PROCEDURE.—
5 (A) APPROVAL OR INSTITUTION OF PRO-
6 CEEDINGS.—Within 35 days of the date of pub-
7 lication of notice of the filing of a proposed rule
8 change in accordance with subsection (a)(1) of
9 this section, or within such longer period as the
10 Commission may designate up to 90 days of
11 such date if it finds such longer period to be
12 appropriate and publishes its reasons for so
13 finding or as to which the Board consents, the
14 Commission shall—
15 (i) by order approve such proposed
16 rule change; or
17 (ii) institute proceedings to determine
18 whether the proposed rule change should
19 be disapproved.
20 (B) NOTICE OF GROUNDS; APPROVAL OR
21 DISAPPROVAL.—Such proceedings shall include
22 notice of the grounds for disapproval under con-
23 sideration and opportunity for hearing and be
24 concluded within 180 days of the date of publi-
25 cation of notice of the filing of the proposed

1 rule change. At the conclusion of such pro-
2 ceedings the Commission, by order published in
3 the Federal Register, shall approve or dis-
4 approve such proposed rule change. The Com-
5 mission may extend the time for conclusion of
6 such proceedings for up to 60 days if it finds
7 good cause for such extension and publishes its
8 reasons for so finding or for such longer period
9 as to which the Board consents.
10 (C) GROUNDS FOR DECISION.—The Com-
11 mission shall approve a proposed rule change if
12 it finds that such proposed rule change is con-
13 sistent with the requirements of this title, the
14 securities laws, and the rules and regulations
15 thereunder. The Commission shall disapprove a
16 proposed rule change if it does not make such
17 a finding. The Commission shall not approve
18 any proposed rule change prior to the 30th day
19 after the date of publication of notice of the fil-
20 ing thereof, unless the Commission finds good
21 cause for so doing and publishes its reasons for
22 so doing.
23 (3) RULES EFFECTIVE UPON FILING.—
24 (A) RULES PERMITTED.—Notwithstanding
25 the provisions of paragraph (2) of this sub-

1 section, a proposed rule change may take effect
2 upon filing with the Commission if designated
3 by the Board as—
4 (i) constituting a stated policy, prac-
5 tice, or interpretation with respect to the
6 meaning, administration, or enforcement of
7 an existing rule of the Board;
8 (ii) establishing or changing a fee, or
9 other charge imposed by the Board; or
10 (iii) concerned solely with the admin-
11 istration of the Board or other matters
12 which the Commission, by rule, consistent
13 with the public interest and the purposes
14 of this section, may specify as outside the
15 provisions of such paragraph (2).
16 (B) AUTHORITY.—Notwithstanding any
17 other provision of this section, a proposed rule
18 change may be put into effect summarily if it
19 appears to the Commission, after consultation
20 with the Board, or the Board after consultation
21 with the Commission, that such action is nec-
22 essary for the protection of investors. Any pro-
23 posed rule change so put into effect shall be
24 filed promptly thereafter in accordance with the
25 provisions of paragraph (1) of this subsection.

1 (C) LIMITATION ON EFFECT.—Any pro-
2 posed rule change that has taken effect pursu-
3 ant to subparagraph (A) or (B) of this para-
4 graph may be enforced by the Board to the ex-
5 tent it is not inconsistent with the provisions of
6 this title, the securities laws, the rules and reg-
7 ulations thereunder, the rules adopted by the
8 Board, and other applicable Federal and State
9 law.
10 (D) ABROGATION.—At any time within 60
11 days of the date of filing of such a proposed
12 rule change in accordance with the provisions of
13 this paragraph, the Commission summarily may
14 abrogate the change in the rules of the Board
15 made thereby and require that the proposed
16 rule change be refiled in accordance with the
17 provisions of paragraph (2) of this subsection,
18 if it appears to the Commission that such ac-
19 tion is necessary or appropriate in the public in-
20 terest, for the protection of investors, or other-
21 wise in furtherance of the purposes of this title
22 or the securities laws. Commission action pur-
23 suant to the preceding sentence shall not affect
24 the validity or force of the rule change during
25 the period it was in effect and shall not be re-

1 viewable under section 25 of the Securities Ex-
2 change Act of 1934 nor deemed to be "final
3 agency action" for purposes of section 704 of
4 title 5, United States Code.
5 (b) POWER OF THE COMMISSION TO AMEND RULES
6 OF THE BOARD.—The Commission, by rule or order, may
7 abrogate, add to, and delete from (hereinafter collectively
8 referred to as "amend") the rules of the Board as the
9 Commission deems necessary or appropriate to assure the
10 fair administration of the Board, to conform its rules to
11 the requirements of this title, the securities laws, and the
12 rules and regulations thereunder applicable to the Board,
13 and otherwise in furtherance of the purposes of this title
14 or the securities laws, in the following manner:
15 (1) NOTICE.—The Commission shall notify the
16 Board and publish notice of the proposed rule-
17 making in the Federal Register. The notice shall in-
18 clude the text of the proposed amendment to the
19 rules of the Board and a statement of the Commis-
20 sion's reasons, including the pertinent facts, for
21 commencing such proposed rulemaking.
22 (2) COMMENT.—The Commission, at its discre-
23 tion, may give interested persons an opportunity for
24 the oral presentation of data, views, and arguments,
25 in addition to an opportunity to make written sub-

1 missions. A transcript shall be kept of any oral pres-
2 entation.
3 (3) TEXT OF RULE AND STATEMENT.—A rule
4 adopted pursuant to this subsection shall incorporate
5 the text of the amendment to the rules of the Board
6 and a statement of the Commission's basis for and
7 purpose in so amending such rules. The statement
8 shall include an identification of any facts on which
9 the Commission considers its determination to
10 amend the rules of the Board to be based, including
11 the reasons for the Commission's conclusions as to
12 any of such facts that were disputed in the rule-
13 making.
14 (4) ADDITIONAL PROVISIONS.—
15 (A) ADMINISTRATIVE PROCEDURE.—Ex-
16 cept as provided in paragraphs (1) through (3)
17 of this subsection, rulemaking under this sub-
18 section shall be in accordance with the proce-
19 dures specified in section 553 of title 5, United
20 States Code, for rulemaking not on the record.
21 (B) PRESERVATION OF COMMISSION AU-
22 THORITY.—Nothing in this subsection shall be
23 construed to impair or limit the Commission's
24 power to make, or to modify or alter the proce-
25 dures the Commission may follow in making

1 rules and regulations pursuant to any other au-
2 thority under this title or the securities laws.
3 (C) RULE OF CONSTRUCTION.—Any amend-
4 ment to the rules of the Board made by the Com-
5 mission pursuant to this subsection shall be consid-
6 ered for all purposes of this title and the securities
7 laws to be part of the rules of the Board and shall
8 not be considered to be a rule of the Commission.
9 (c) COMMISSION REVIEW OF DISCIPLINARY ACTION
10 TAKEN BY THE BOARD.—
11 (1) NOTICE TO COMMISSION.—If the Board im-
12 poses any final disciplinary or remedial sanction on
13 any public accounting firm registered with the
14 Board or on any person associated with a public ac-
15 counting firm registered with the Board, the Board
16 shall promptly file notice thereof with the Commis-
17 sion. The notice shall be in such form and contain
18 such information as the Commission, by rule, may
19 prescribe as necessary or appropriate in furtherance
20 of the purposes of this title and the securities laws.
21 (2) COMMISSION AUTHORITY TO REVIEW.—Any
22 action with respect to which the Board is required
23 by paragraph (1) of this subsection to file notice
24 shall be subject to review by the Commission, on its
25 own motion, or upon application by any person ag-

1 grieved thereby filed within 30 days after the date
2 such notice was filed with the Commission and re-
3 ceived by such aggrieved person, or within such
4 longer period as the Commission may determine. Ap-
5 plication to the Commission for review, or the insti-
6 tution of review by the Commission on its own mo-
7 tion, shall not operate as a stay of such action un-
8 less the Commission otherwise orders, summarily or
9 after notice and opportunity for hearing on the ques-
10 tion of a stay (which hearing may consist solely of
11 the submission of affidavits or presentation of oral
12 arguments). The Commission shall establish for ap-
13 propriate cases an expedited procedure for consider-
14 ation and determination of the question of a stay.
15 (d) DISPOSITION OF REVIEW; CANCELLATION, RE-
16 DUCTION, OR REMISSION OF SANCTION.—
17 (1) AUTHORITY TO AFFIRM, MODIFY, OR SET
18 ASIDE.—In any proceeding to review a final discipli-
19 nary or remedial sanction imposed by the Board on
20 a public accounting firm registered with the Board
21 or a person associated with such a firm, after notice
22 and opportunity for hearing (which hearing may
23 consist solely of consideration of the record before
24 the Board and opportunity for presentation of sup-

1 porting reasons to affirm, modify, or set aside the
2 sanction)—
3 (A) if the Commission finds that such firm
4 or person associated with such a firm has en-
5 gaged in such acts or practices, or has omitted
6 such acts, as the Board has found him or her
7 to have engaged in or omitted, that such acts
8 or practices, or omissions to act, are in violation
9 of such provisions of this title, the securities
10 laws, the rules or regulations thereunder, the
11 rules adopted by the Board, or professional
12 standards as have been specified in the deter-
13 mination of the Board, and that such provisions
14 are and were applied in a manner consistent
15 with the purposes of this title and the securities
16 laws, then the Commission, by order, shall so
17 declare and, as appropriate, affirm the sanction
18 imposed by the Board, modify the sanction in
19 accordance with paragraph (2) of this sub-
20 section, or remand to the Board for further
21 proceedings; or
22 (B) if the Commission does not make any
23 such finding it shall, by order, set aside the
24 sanction imposed by the Board and, if appro-

1 priate, remand to the Board for further pro-
2 ceedings.
3 (2) ALTERATION OF SANCTION.—If the Com-
4 mission, having due regard for the public interest
5 and the protection of investors, finds after a pro-
6 ceeding in accordance with paragraph (1) of this
7 subsection that a sanction imposed by the Board
8 upon such firm or person associated is inadequate or
9 inappropriate in light of the nature of the violation
10 and the purposes of the securities laws, or is exces-
11 sive or oppressive, the Commission may enhance,
12 modify, cancel, reduce, or require the remission of
13 such sanction.
14 (e) BOARD COMPLIANCE WITH RULES AND REGULA-
15 TIONS.—
16 (1) COMPLIANCE.—The Board shall comply
17 with the provisions of this title, the securities laws,
18 the rules and regulations thereunder, and its own
19 rules and (subject to the provisions of paragraph (2)
20 of this subsection and the rules thereunder) absent
21 reasonable justification or excuse enforce compliance
22 with such provisions and with professional standards
23 by public accounting firms registered with the Board
24 and persons associated with such firms.

1 (2) COMMISSION RELIEF FROM COMPLIANCE.—
2 The Commission, by rule, consistent with the public
3 interest, the protection of investors, and the other
4 purposes of this title and the securities laws, may re-
5 lieve the Board of any responsibility under this title
6 to enforce compliance with any specified provision of
7 this title, the securities laws, the rules or regulations
8 thereunder, or professional standards by any public
9 accounting firm registered with the Board or person
10 associated with such a firm, or any class of such
11 firms or persons associated with such firms if the
12 Commission—
13 (A) finds that relieving the Board of such
14 responsibility is necessary in the public interest
15 and for the protection of investors; and
16 (B) the Commission assumes the responsi-
17 bility for enforcing such compliance.
18 (f) CENSURE OF THE BOARD; OTHER SANCTIONS.—
19 (1) COMMISSION AUTHORITY OVER BOARD.—
20 The Commission is authorized, by order, if in its
21 opinion such action is necessary or appropriate in
22 the public interest, for the protection of investors, or
23 otherwise in furtherance of the purposes of this title
24 or the securities laws, to censure or impose limita-
25 tions upon the activities, functions, and operations

1 of the Board, if the Commission finds, on the record
2 after notice and opportunity for a hearing, that the
3 Board has violated or is unable to comply with any
4 provision of this title, the securities laws, the rules
5 or regulations thereunder, or its own rules or with-
6 out reasonable justification or excuse has failed to
7 enforce compliance with any such provision or any
8 professional standard by a public accounting firm
9 registered with the Board or a person associated
10 with such a firm.

11 (2) COMMISSION AUTHORITY TO SANCTION
12 MEMBERS.—The Commission is authorized, if in its
13 opinion such activity is necessary or appropriate in
14 the public interest, for the protection of investors, or
15 otherwise in furtherance of the purposes of this title
16 or the securities laws, to remove from office or cen-
17 sure any member of the Board, if the Commission
18 finds, on the record after notice and opportunity for
19 a hearing, that such member has willfully violated
20 any provision of this title, the securities laws, the
21 rules or regulations thereunder, or the rules of the
22 Board, willfully abused his or her authority, or with-
23 out reasonable justification or excuse has failed to
24 enforce compliance with any such provision or any
25 professional standard by any public accounting firm

1 registered with the Board or any person associated
2 with such a firm.

3 **SEC. 409. FOREIGN PUBLIC ACCOUNTING FIRMS.**

4 (a) APPLICABILITY.—Any foreign public accounting
5 firm that furnishes an independent accountant's report
6 with respect to any financial statement, report, or other
7 document required to be filed with the Commission under
8 the securities laws shall be subject to the provisions of this
9 title in the same manner and to the same extent as a do-
10 mestic public accounting firm.

11 (b) EXEMPTIONS.—Notwithstanding subsection (a),
12 the Commission or Board may, by rule, regulation, or
13 order and as it deems consistent with the public interest
14 and the protection of investors, either unconditionally or
15 upon specified terms and conditions—

16 (1) exempt any foreign public accounting firm,
17 or any class of such firms, from 1 or more provi-
18 sions of this title; or

19 (2) impose additional qualifications on any for-
20 eign public accounting firm, or any class of such
21 firms, to assure such firm's knowledge of profes-
22 sional standards in the United States and that such
23 firm has adequate procedures in place to assure
24 compliance with those professional standards.

1 (c) LIAISON.—The Board may, as it deems necessary,
2 consult, liaise, and meet with accounting professionals and
3 regulators in other countries.

4 **SEC. 410. TRANSITION.**

5 Any person previously associated with a public ac-
6 counting firm and in the position of chief executive officer,
7 chief financial officer, controller or principal accounting
8 officer, or any equivalent positions of an issuer prior to
9 the enactment of this Act, shall not impair the independ-
10 ence of an accounting firm under section 406(a)(1). Until
11 1 year from the date of the enactment of this Act, pro-
12 viding those services set forth in section 406(a)(2) will not
13 impair the independence of a public accounting firm, if
14 performing those services did not otherwise previously im-
15 pair the firm's independence under preexisting require-
16 ments of the Commission or professional standards. Para-
17 graphs (3) and (4) of section 406(a) shall not apply until
18 5 years from the enactment of this Act. Section 406(a)(5)
19 shall not apply to audits commenced prior to the date of
20 the enactment of this Act.

TITLE V—PRESERVATION OF AUTHORITY

SEC. 501. SECURITIES AND EXCHANGE COMMISSION AUTHORITY NOT IMPAIRED.

Nothing in this Act shall be construed to impair or limit the Securities and Exchange Commission's authority over the accounting profession, accounting firms, or persons associated with such firms, or to set standards for accounting or auditing practices or auditor independence, derived from other provisions of the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) or the rules or regulations thereunder, or the Commission's ability to take, on its own initiative, legal, administrative, or disciplinary action against any public accounting firm registered with the Board or any person associated with such a firm.