THE SPANISH-AMERICAN ALLIANCE:

A Look Into The Sarbanes-Oxley Act,
The International Precedence It Set,
And Its Interpretive Nature

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PREFACE

"The best in business have boundless curiosity and open minds."

- ***Robin S. Sharma***[1]

"Every problem is a gift—without problems we would not grow."

- ***Anthony Robbins***[2]

As I embark on this two-year commitment with the Laidlaw Foundation, I am beyond grateful to have been given the trust to conduct this research project.

Since I can remember, my dream has always been to become an attorney. While I've grown older and my academic endeavors have increased in difficulty, my goals haven't changed. My passion is, and will forever reside in the law. It is with this mindset that I now wish to specialize in Corporate Law for the rest of my life. Breaking into this field is no easy task, though, as undergraduate work opportunities are few and far between. So, to be named a research fellow at this stage in my career is a dream in and of itself.

Over six preliminary weeks of work, I conducted a comprehensive study into the global business world by concentrating this paper and its corresponding poster on the pillars of financial auditing standards. With a distinct focus on the 2002 Sarbanes-Oxley Act, this research project will describe the transnational differences between corporate transparency laws in the U.S. and abroad. Using the American application of the law as a general precedent to build off of, I will juxtapose this baseline standard to the regulatory legislation of Spain, a European powerhouse.

Although these two countries are on opposite hemispheres, the U.S. and Spain have always had a close relationship with one another, bound together by their overlapping business matters. When it comes

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[1] A Canadian Author and inspirational writer who has coined himself as an expert on leadership, stress management and spirituality. He is best known for the book series, 'The Monk Who Sold His Ferrari;'
Sharma, Robin S. "Robin Sharma Quotes." BrainyQuote. Accessed June 10, 2023. https://www.brainyquote.com/quotes/robin_s_sharma_857731.

[2] A renowned life coach, author, and philanthropist who focuses his speaker sessions on "world authority" and the "leadership psychology" of today;
Landau, Peter. "30 Best Business Quotes to Inspire Entrepreneurs & Go-Getters." ProjectManager, July 23, 2019. https://www.projectmanager.com/blog/30-best-business-quotes.

to governance, though, the extent of the federal response is vastly different. While the U.S. wrote the Sarbanes-Oxley Act, Spain merely interpreted this law and matched it to its ethical standards.

As shown in this paper, the ability to enforce financial regulations isn't the same for every country, nor is it always accepted as efficient. At some point, discordance[3] will ensue and create a breeding ground for malpractice as more companies discover loopholes in the law. However, corporate corruption will not diminish unless countries learn to act accordingly and change their legislation to become more rigorous against fiduciary issues.

This paper consists of eight sections that organize into three broader categories: The History of the Sarbanes-Oxley Act, The Foreign Application of the Sarbanes-Oxley Act, and the impacts of the Sarbanes-Oxley Act. With this inquiry, I hope my study can enlighten the public on business matters, giving them a new breadth of knowledge.

With the support of all my peers in mind, I would like to finish this preface by giving a special thanks to Professor Rebecca Boylan, Fellowship Director Dr. Lauren Tuckley, Assistant Director Colleen Dougherty, and both cohorts of Laidlaw scholars for introducing me to this program and welcoming me with open arms.

I also want to acknowledge my faculty advisor, Professor David Burk of the Economics Department at Georgetown University, Attorney Valerie Brader, and Senior Investment Manager Woodrow Tyler for proofreading my paper and giving me endless guidance throughout this research project.

Finally, I would like to say thank you to Armando (my father), Glenda (my mother), and Fabrizzio (my brother) for motivating me to keep working as hard as I do. With all my love,

-Jefferson Gonzalez-Flores

[3] Discordance is defined as the lack of agreement or consistency.

I. INTRODUCTION

At its most rudimentary form, the Sarbanes-Oxley Act of 2002[4] ("SOX") is *the* marquee legal document from which actions of internal corporate governance conform to meet regulatory criteria. With a great emphasis on accountability, the purpose behind this act was to ensure that company executives consistently adhere to an ethical set of rules when making business decisions.

As a law of the most convolute and controversial nature, SOX was radical in conception yet emphatic in legislative execution. While this federal law received mass praise from the U.S. government *and* the general public, others denounced the act for the ravaging effect some provisions had on the daily responsibilities of managers and executives.

In light of the bear market in 2002, SOX was enacted as a response to the exposure of corporate fraud and a slowdown in national economic activity. Within society, feelings of ambivalence when engaging with businesses reached an all-time high, the collective confidence in financial markets was "shaken,"[5] and investors didn't know how to deal with this economic phenomenon. To make matters worse, optimistic internet IPOs saw their "bubble burst" [6] as they went public, the Dow Jones Industrial Average (DOW) dropped from 11,497 in December to 8,712 by August, and the Nasdaq Composite Value (NASDAQ) dropped from 5,046 in March to 1,316 in August as well. This negatively correlated trend would continue into the latter parts of the year until it created a toxic business environment. With finance becoming more vulnerable

[4] Public Law 107-204

[5] Holt, Michael F. *Sarbanes-Oxley Act: Costs, Benefits, and Business Impact*. Oxford, UK: Elsevier Butterworth-Hein, 2008, 15.

[6] Bloomenthal, Harold S., and Samuel Wolff. *Sarbanes-Oxley Act in Perspective*. St. Paul, MN: Thomson Reuters, 2002, 4.

than ever, those large and supposedly "well-regarded"[7] companies could nurture incidents of accounting malfeasance while concurrently profiting off of the misery of others.

To prevent further catastrophes of fraud in the U.S., President George W. Bush enacted SOX as a package of federal disclosure documents that would cause a sweeping change to financial auditing standards in public companies. Representing the single-largest reform to business law since the creation of the SEC and the pivotal Securities Exchange Act of 1934, this act gained notoriety—some would say, infamy—after Bush's 10-point plan where he denoted how the public cannot allow "fraud to undermine"[8] our economy nor corruption to "offend the consciousness"[9] of our nation.

In any business matter overseen by the government, it's expected, not insinuated, that people uphold and advocate for ethical behaviors in their line of work. However, this assumption couldn't be further from the truth. It's almost as if those who make up "corporate America"[10] abide by different morals than the rest of the world. To many in the *one percent*, living with absolute integrity is *not* an aphorism they should follow. After the implementation of SOX, though, the tendency to exploit this "irrational exuberance"[11] stopped becoming habitual as the act restored the credibility of the information disclosed in accounting reports.

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[7] Bloomenthal and Wolff, *Sarbanes-Oxley Act in Perspective, 5.*

[8] Bloomenthal, Harold S. *Sarbanes-Oxley Act in Perspective: 2010-2011 Edition*. St. Paul, MN: Thomson & West, 2011, 6.

[9] Bostelman, John T. *The Sarbanes-Oxley Deskbook*. Vol. 1 of *654*. New York, NY: Practising Law Institute, 2008, 10.

[10] Fletcher, Wilma H., and Theodore N. Plette. *The Sarbanes-Oxley Act: Implementation, Significance, and Impact*. New York, NY: Nova Science Publishers, 2008, 42.

[11] Irrational Exuberance refers to a misrepresentation of a company's business position and assets. It's also an overenthusiasm for positive results, leading to disadvantageous purchases without acknowledging an asset's intrinsic value.
Fletcher, and Plette. *The Sarbanes-Oxley Act: Implementation, Significance, and Impact*, 26.

The Sarbanes-Oxley Act redefined what it meant to regulate a company. By strengthening both the auditing profession and the field of business, SOX could reinforce federal securities laws while improving shareholder protection, increasing criminal punishments, and adding to a company's shared liabilities.[12] However, one cannot fully comprehend the act's sheer influence without stepping back and undergoing a vigorous examination of the historical events that led up to the ratification of SOX.

II. LEGISLATIVE BACKGROUND

IIA. THE ENRON FIASCO

As alluded to in the previous section, SOX has roots grounded in corporate scandals and the abuse of directorial power. There would not be a Sarbanes-Oxley Act today without the downfall of Enron in 2001. After being exposed for their flagrant accounting infractions, Enron became the final domino to make structures of fraudulent activity fall. On August 14, 2001, Jeffrey Skilling, the acting CEO and COO of Enron (an energy company focused on operating and developing pipeline systems and power plants), resigned after six months at the helm; the same day, the company filed its 10Q[13] to the SEC. With his resignation seen as a shock move within this corporation, Enron was left without an executive to follow; as Kenneth Lay, their former Chairman and CEO, had just relinquished his titles before Skilling took over.

Working under the pretense of [his] decision being "purely personal,"[14] Skilling thought his abrupt act could avoid prosecution, delay his incarceration, and deceive his employees if he

[12] Shared Liabilities are things that a person, company, or both, owes...usually regarding debt or an obligation.
[13] A 10Q is a quarterly report that a company submits to outline its total performance while including un-audited financial statements

[14] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 12.*

could successfully disassociate himself from his corporate ties. Unbeknownst to him, Sherry Watson, a staff member, and Arthur Andersen,[15] Enron's financial auditor, took notice of the enigmatic irregularities in their recent financial statements and sent out an anonymous letter to Mr. Lay (now a consultant for the company) three days later. In this letter, both employees conveyed worry, stating that Enron had been "very aggressive in its account"[16] and could potentially "implode."[17]

On October 16, their worries would come to fruition after Enron reported contradictory Q3 results with a $44m increase in earnings and a $1.2b decrease in stockholder equity.[18] These results weren't just negative; they were severely unpropitious so people couldn't fathom how this numerical inflation was even possible. A company cannot simultaneously have an inverse relationship between earnings and shareholder value, so investors were rightfully suspicious, and public skepticism grew. A week later, the SEC launched an investigation into what many believed to be "related party transactions."[19]

This discovery period would continue for the rest of the month until the first week of November when Enron announced that their CFO, Andrew Fastow, would be replaced and that the company would have to "restate"[20] their financial statements from 1997-2001 because they overestimated their net income by an aggregate number of $586m. To exacerbate the severity of this situation, Enron employees were also being "blacked out" from either selling their company

[15] Arthur Anderson is the accounting firm for Enron Energy company labeled as Arthur Anderson LLP. While this is not the founder/person himself, the company did appear to be involved in the accounting misrepresentation, so they also went out of business.
[16] Ibid.
[17] Ibid.
[18] Shareholder equity represents the remaining or "net value" of a company's worth, which shareholders are entitled to after subtracting company assets from liabilities.
[19] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 13.*
[20] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 14.*

stock or accessing their 401k plan because their "plan administrator"[21] (the CFO) had conveniently just lost his job.

Using one's authority in vain is the epitome of hypocrisy, yet these business executives neglect this statement, furthering their abuse of trust. It's one thing for a company to keep their employee in suspense, but it's an entirely different thing to sacrifice this workforce to buy oneself time. Enron employees had 62% of their 401k plan assets in the company stock, and they saw the listing price drop from $13.81 to $9.96 instantly, all without having a say.

In a last-ditch effort to escape the imminent commission penalties, Dynergy Inc., a retail electric service company, acquired Enron and all its assets on November 9, 2001. However, this contractual agreement would only last for three weeks as Dynergy terminated its acquisition because Enron's finances were "worse than expected."[22] Four days later, Enron and its subsidiaries filed for Chapter 11 bankruptcy, symbolizing one of the most deplorable bankruptcy declarations in U.S. history.

Once the SEC's investigation wrapped up, several criminal trials began in January of the following year, creating the most surprising revelation to date when Arthur Anderson LLP (Enron's auditing firm and the company of one of their inside informers) told congressional investigators that it destroyed a "significant but undetermined amount"[23] of audit documents from the beginning of the investigation. After only two months of proceedings in a sealed grand jury trial, the courts criminally indicted Andersen on one count of obstruction of justice. By June 15th, the court also found Arthur Anderson LLP guilty of the same charge, causing a cease of all operations by the end of August. Three years later, though, the Supreme Court of the United

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[21] Ibid.
[22] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 15.*
[23] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 18.*

States of America overturned the Andersen conviction because the instructions given by the district court failed to "properly convey"[24] that "consciousness of wrongdoing"[25] is necessary under the pre-SOX obstruction of justice statute.

Regarding Enron and *its* criminal trials, there were completely different outcomes in court. In the same month as the Andersen case invalidation, a jury found Jeffrey Skilling guilty of eighteen counts of fraud and conspiracy, plus one count of insider trading. On October 23rd, 2005, Skilling received an official sentencing of 24 years and four months in a federal penitentiary. Having been put on the same trial as Skilling, the same jury found Kenneth Lay guilty of six counts of fraud and conspiracy and four counts of bank fraud for selling Enron stock and not reporting it. Awaiting his final sentencing, Lay would die on July 5th, 2006, vacating his conviction and dismissing his charges while Skilling remained in prison until being released from federal custody on February 21st, 2019.

Apart from the negligence that Enron's executives showed, various other entities contributed to this case of corporate impropriety. Although the extent of aiding and abetting[26] was alarming, no actions were as appalling as those of the three biggest credit rating agencies in America; Moody's Investors Services, Standard & Poor Corporation, and Fitch Ratings. As third-party consultants, these credit agencies witnessed felonious business practices yet still failed to foresee Enron's demise. Even before the glaring red flags of 2001, these three agencies kept Enron's overall company rating at the "upper level,"[27] representative of "very good"[28] credit quality. It was not until *after* Dynergy Inc. backed out from their deal that analysts would

[24] Ibid.
[25] Ibid.
[26] Aiding and abetting is a legal term that refers to any action that assists or encourages someone to commit a crime.
[27] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 20.*
[28] Ibid

downgrade Enron's credit rating. Despite Enron going to ruin, some investment bankers from JP Morgan, Citigroup, and Moody's still tried to lobby for the company, especially when trying to keep the Dynergy deal alive.

By focusing on "short-term cash positions"[29] instead of "long-term financial health," these credit agencies were notorious for bolstering Enron's balance sheets while disregarding their off-balance sheet obligations, especially regarding the risk exposures left by their Special Purpose Entities (SPEs). Since there were no real concerns of fraudulent activity in years past, there was still confidence Enron would pull out a "strong performance."[30] With these altered financial statements then, the number of assets and liabilities was unclear, SPE[31] transactions could go through successfully, and the need to "transfer risk,"[32] or meet "bona fide economic objectives"[33] was practically nonexistent. Spearheaded by CFO Andrew Fastow, Enron would even hedge against poor investments by allowing sophisticated stock structures to hide company losses until a worse loss could "shortfall"[34] SPE credit capacity. Gaining over $30m during the corruption scandal, Enron's executives continued to profit from these transactions while the company went bankrupt. Since there were no established internal controls or code of conduct to adhere to, their actions wouldn't raise concern until it was too late.

IIB. "DOMINO EFFECT"

Enron's meltdown wasn't the only event that defined 2002. At least five other major corporate controversies occurred during this time, the likes of which are described below. While

[29] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 21.*
[30] Ibid.
[31] "SPE" or Special Purpose Entities are a legal type of business that can either absorb risk for a corporation or release it by securing assets when the parent company goes bankrupt. This business strategy is extremely complex as SPEs must have both its assets and its investors be separate from the parent company. As long as a parent company meets certain criteria, they do not have to record an SPE because the legal guidelines are fairly opaque.
[32] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 22.*
[33] Ibid.
[34] Ibid.

Congress designed SOX to prevent cases of fraudulent accounting, this period was highly prone to financial unreliability.

1) **GLOBAL CROSSING LTD.:** Global Crossing Ltd was a telecommunications company that built underwater fiber-optic cables for high-speed internet. In January 2002, this company filed for bankruptcy after reports emerged that their Vice President had sent a letter disclosing that the company had "misled" [35] their accounting department by falsely reporting an increase in revenue figures. Couple these errors with discrepancies in senior executive compensation (e.g., Chairman and CEO Garry Winnick earning $734M from selling company stock near its peak), and the firm fell, never rising again. It's worth mentioning that Arthur Andersen LLP was the lead auditor for Global Crossing, the same company Enron used.
2) **ADELPHIA COMMUNICATIONS CORPORATION**: Adelphia Communications Corporation was a cable TV operator that saw its 2002 Q4 earnings sheet reveal that the entities it "co-owed"[36] with the Rigas family (the operating force of the company) had accumulated $2.3b in debt. Adelphia stock tumbled 35% in just three days, and on April 1st, 2002, they announced they would be delaying their 10Q release so the SEC could look into their loans and debt. By May, the Rigas family gave up company control as they faced federal grand jury probes. By June 25th, the SEC delisted the Adelphia stock, and eventually, the company with its subsidiaries filed for Chapter 11 bankruptcy.
3) **TYCO INTERNATIONAL LTD.:** Tyco International Ltd. was a security company that became controversial because its CEO and CFO sold $100m in stock while denying this ever occurred. At the same time, the SEC was tracking millions of dollars in “questionable”[37] company bonuses, loans, and other payments that Tyco made to outside directors who supported the company. For example, one of their under-the-table payment deals was for

[35] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 24.*
[36] Ibid.
[37] Bloomenthal, and Wolff, *Sarbanes-Oxley Act in Perspective, 25.*

$20m in fees plus donations to their sender's charity. While Tyco had PricewaterhouseCoopers ("PWC") as their auditing firm and not Andersen LLP, PWC analysts knew about the illegal activity and would willingly sign off on disclosing issues.

4) **QWEST COMMUNICATIONS INTERNATIONAL**: Qwest Communications International was another telecommunications company represented by Andersen LLP from 1999 – 2001. During this span, Qwest executives made $500m from selling company stock, but since they had a close connection to other network companies such as Enron and Global Crossing, their earnings increased too.
5) **WORLDCOM, INC.:** Finally, WorldCom Inc. was a long-distance carrier of internet traffic that overstated its cashflow statement by $3.8b through five quarterly releases. This number was astronomically high because they tracked operating costs as capital investments. By July 2002, WorldCom filed for bankruptcy, and their $107b in assets vanished.

These accounting scandals weren't just dots in the SEC's radar but a true indicator of what an executive management team is capable of. While companies were committing crimes of "unprecedented magnitude,"[38] none of the existing laws could prevent such fraud from occurring again, so immediate Congressional oversight was needed.

IIC. "CONGRESS GETS TO WORK"

As the one legal body capable of coupling presidential ambitions for economic security and the SEC's need for regulation, the 107th Congress of the United States of America became an intermediate point of consensus for anyone involved in corporate business. Culminating with WorldCom's confession in late 2002, Congress began to draft new legislative bills that could

[38] Fletcher and Plette, *The Sarbanes-Oxley Act: Implementation, Significance, and Impact*, 55.

address fraudulent corporate activity, clarify past misconceptions, and move from the past "market-oriented approach"[39] to now reflect a "strong prescriptive"[40] regulatory approach.

Within a few weeks, several bills were submitted for debate, with the House of Representatives creating the first bill. Coined as bill H.R. 3763, this proposal gained recognition for establishing the Public Company Accounting Oversight Board (PCOAB) and adding other "mild reforms,"[41] although it lacked provisions for criminal punishments. H.R. 3763 would eventually pave the way for the Senate bill, S. 2673, which acknowledged crime extensively, heavily emphasizing the range of possible convictions. This Senate bill would also change section §402 by banning executives from taking out personal loans rather than allowing them if executives properly disclose their actions. From the perspective of the Senate, the SEC should mitigate any extension of credit to directors as they could use this fraudulent money to pay their taxes earlier. The House would then respond with their revamped bill, H.R. 5118, which accepted the criminal penalties put forth by S.2673, but added another provision dictating protocols for preventing retaliatory acts on corporate whistleblowers.

For every change made between these past pieces of legislation, more similarities were agreed upon, though, and the final framework for the Sarbanes-Oxley Act was visibly taking shape, with its content seen as overt and promising[42]. In politics, nothing can bring more hope to a nation than representatives who are synergetic and not discordant. While the public was unsure of how divergent the final bill may be, America was pleased to know that SOX wouldn't redact but add onto the other congressional bills by "strengthen[ing] its prescriptions."[43] By expanding

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[39] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, 30.
[40] Ibid.
[41] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, 34.
[42] *See Appendix A* for a table comparing and contrasting *some* of the differences found in the bills written by Congress.
[43] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, 36.

on preexisting securities law concepts, Congress almost voted unanimously in favor of SOX, passing 423-3 in the House and 99-0 in the Senate on July 25th, 2002. President George W. Bush would officially sign the Sarbanes-Oxley Act on July 30th, 2002, and the act has been in effect ever since.

III. OVERVIEW OF THE SARBANES-OXLEY ACT

To say SOX is an extensive legal document is an understatement. Amassing 11 titles with over 1,100 sections, the contents of this law can be overwhelming to those without experience reading legal writing. However, to better comprehend SOX, it is helpful to arrange its provisions into seven generalized groups: Issuer Reporting, Governance, Auditors, Attorneys, "Ancillary Gatekeepers,"[44] Remedies & Penalties, and Miscellaneous. By highlighting the most valuable sections in each group, these brief synopses will go as follows:

ISSUER REPORTING[45]: Concentrated on management certifications for SEC company reports, this category is usually associated with §302 and §906, respectively. What differentiates these two sections is that §302 requires a certification for reports that *do not* contain financial statements, whereas §906 requires that the executives sign off on reports that *do* contain financial statements. Whether these documents are an annual 10K or a quarterly 10Q, the leading CEO or CFO must verify every report made. Even if a corporation is a non-U.S. company, there must be an equal evaluation of disclosure done, but these companies would have to file either a 20-F[46] or 40-F[47] report instead. For every company that this rule covers, they must also establish an

[44] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 19, pg. 20.
[45] Issuer reporting denotes the physical reporting a company does and submits to the SEC
[46] A 20-F report is an annual report filed by non-U.S. companies that list in U.S. exchanges and or trade in U.S. securities.
[47] A 40-F report is a report that has the same requisites as a 20-F report on disclosure but only pertains to Canadian companies who wish to trade or interact with U.S. financial markets,

"internal control over financial reporting;"[48] so that all information is "fully and accurately"[49] reported in a "timely manner."[50]

GOVERNANCE: Seen as one of the most tedious sections in SOX, *governance* refers to the procedures that control a company. Some of the provisional topics found for this section include the: Board of Directors (Rule 10A-3), Auditing firms (§301), Financial Experts (§407), Auditing Committee Communications (§204), and Code(s) of Ethics (§406). Regarding the board of directors, this section doesn't list guidelines dictating how a board of directors should be structured, but rather it "addresses the independence concerns"[51] raised by their audit committees. For an issuer's auditing firm, however, the requirements set by the act are more demanding as each firm, under §301 of SOX, must institute an auditing committee that:

1. Is "…directly responsible"[52] for the "appointment, compensation, and oversight"[53] of any work conducted by the registered public accounting firm that an issuer employs.
2. Within a committee, each member will technically be a part of the issuer's board of directors. However, they can only be an "independent member"[54] that acts in their capacity as part of the auditing committee. Restricted actions include:
    a. Accepting any consulting, advisory, or other compensatory fee from the issuer; or
    b. Being personally affiliated with the issuer or any of its subsidiaries
3. Each committee must set procedural ground rules for situations such as:

[48] This clause overlaps with the infamous §404 of the same category. *See Appendix B* for an example of an internal control auditing report.
[49] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 12, pg. 4.
[50] Ibid.
[51] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 10, pg. 5.
[52] Ibid.
[53] Ibid.
[54] Ibid.

   a. "Receipts, retention, and treatment"[55] of company complaints that involve any accounting or auditing matters and;
   b. Any confidential or anonymous submission that an employee makes about a company.

4. Each committee has the authority to engage with independent counsel or any other advisory if they believe it necessary to carry out their member duties.
5. Issuers must provide the "appropriate"[56] amount of funding, as determined by the committee, for compensatory payments to any registered public accounting firm or possible adviser(s).

According to SEC rules, one cannot just deem themselves a "financial expert." [57]While the motives to protect "public interest"[58] and investor sentiments are the same for a financial expert as for any other employee, the definition isn't as straightforward. Per §407, a financial expert must have:

1. An understanding of GAAP[59] (Generally Accepted Accounting Principles) and the three financial statements
2. Education and experience in preparing, auditing, and analyzing financial statements for "generally comparable"[60] issuers.

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[55] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 10, pg. 6.
[56] Ibid.
[57] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 11, pg. 11.
[58] Ibid
[59] "The four basic pillars of GAAP address matters of costs, revenues, matching, and disclosure, while its four major constraints including objectivity, materiality, consistency, and prudence." Information provided by:
Bertsch, Larry L. "GAAP: Generally Accepted Accounting Principles: LLB CPA." Professional Accounting Services in Las Vegas, NV - LLB CPA, April 6, 2023. https://llbcpa.com/gaap-generally-accepted-accounting-principles/#:~:text=The%20four%20basic%20constraints%20associated,%2C%20materiality%2C%20consistency%20and%20prudence.
[60] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 11, pg. 12.

   a. This requirement ultimately allows for companies to "reasonably expect"[61] their financial experts to understand accounting issues and accurately reflect their thoughts on an issuer's financial statements

3. Education and experience in generally applying principles of estimates, accruals, and reserves;
   a. The SEC will provide guidance to all companies with a list of factors that facilitate the evaluation process for auditors who may qualify as "financial experts."
4. Education and experience with internal auditing controls and reporting procedures and;
5. A thorough understanding of auditing committee functions.

To conclude the governance category, every company was now required to have a Code of Ethics, pursuant to §406, which mandates that:

1. A company must disclose whether or not they've adopted a code of ethics that applies to its executives. If a firm has failed to perform this task, it must explain why it has not done so.
2. The code should itself discourage wrongdoing whilst promoting honest and ethical conduct, even in the face of conflicts of interest between personal and professional relationships
3. The code should instruct for "full, fair, accurate, and understandable"[62] disclosure in company reports.
4. Executives should respect and adhere to governmental laws, rules, or regulations.

[61] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 11, pg. 13.
[62] Ibid

5. Executives should show accountability and directly report defiance against the code of ethics to the appropriate person(s) identified in the code; and
6. Registering companies must file a copy of their code of ethics to the SEC, post the text with proper signage on the internet, and undertake the promise to provide anyone requesting the code, a copy of it "without charge."[63]

AUDITORS: Although SOX has frequently mentioned the work of auditing firms throughout its document, this section was crucial in outlining the services an auditor is prohibited from providing. As stated by §201, it's unlawful, unless stated otherwise, for a public accounting firm to perform "contemporaneously with an audit" any non-audit service because it could either jeopardize or threaten a company's independence if no safeguards are present. Possible violations include:

- Bookkeeping or other services relating to accounting records or financial statements
- Designing or implementing financial information systems
- Any appraisal or valuation service, fairness opinions, or contribution-in-kind reports
- Actuarial and Internal audit outscoring services
- Management functions or human resources
- Brokering, dealing, investment advising, or any other investment banking services,
- Providing legal and or other expert services not related to the audit at-hand
- Any other service the PCAOB determines, by regulation, is impermissible.

ATTORNEYS: Focusing on the "minimum standard"[64] of professional conduct for covered attorneys, the SEC can now issue rules for attorneys who appear or practice before the commission as an issuer's representative. As an essential part of any corporation, attorneys

[63] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 11, pg. 14.
[64] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 18, pg. 12.

analyze a company's liability risks or gaps and offer their advice on inaccurate portions of contracts. In SOX's §307, these commission rules were especially prominent when becoming aware of "credible evidence"[65] and assessing it for "material violations"[66] of fiduciary duty or similar breaches. In such cases, the company attorney must first report this evidence "up-the-ladder"[67] within an issuer's chain of command to their Chief Legal Officer (CLO). If the CLO fails to give an "appropriate response,"[68] the attorney must change course and alert the auditing committee or the board of directors, depending on whoever takes these claims seriously and reacts accordingly.

ANCILLARY GATEKEEPERS: Ancillary gatekeepers are defined as people who can block access to the "key decision makers"[69] in a company. They are to a marketplace what soldiers are to an army, "sentries"[70] of their public environments. By ensuring that our corporate companies "stay clean,"[71] SOX protects such gatekeepers by adding a distinct section for employee whistleblowers (§1107) and credit rating agencies (§702). For whistleblowers, SOX §1107 has made it a federal offense (punishable by fines, a prison sentence of up to 10 years, or both) to allow anyone to harm an individual for providing factual information about fraud to law enforcement, management, or the commission. People cannot knowingly, with an "intent to retaliate,"[72] interfere with the "lawful employment or livelihood"[73] of someone because they

[65] Ibid
[66] Ibid
[67] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 18, pg. 13.
[68] Ibid
[69] Bostelman, John T. The Sarbanes-Oxley Deskbook. Vol. 2 of 16919. New York, NY: Practising Law Institute, 2008.
[70] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 19, pg. 20.
[71] Ibid
[72] Ibid
[73] Ibid

stand by their morals. As far as credit rating agencies, SOX §702 delineates that these agencies must:

- Evaluate securities issuers;
- Explain the importance of their role to investors and the securities market;
- Explain any "impediment"[74] to the accurate appraisal of financial resources and issuer risks;
- Explain any "barriers to entry"[75] that may arise in acting as an agency and the steps needed to move such barriers;
- Explain the measures needed to improve the dissemination of financial information; and
- Explain any conflicts of interest held in operating as an issuer's agency and the steps needed to "ameliorate the consequences"[76] of these conflicts.

REMEDIES AND PENALTIES: As a factor shaping future sentencing decisions, this category restructured the landscape of corporate reparations by focusing on an employee's financial stability of employees. Although this category has more subtopics, concentrating on updated fraud crimes and employee reparations is perhaps the most systematic way of analyzing remedies and penalties. In SOX §308, a disgorgement fund was made for all employees who are victims of public corporate greed[77]. In the event that the SEC brings judicial or administrative action against an issuer, the SEC "obtains an order"[78] to seek "disgorgement"[79] against the people (usually executives) who misappropriate funds and violate any law, rule, or regulation. Within this clause, a person must agree, in a settlement, to commit to such disgorgement, or the

[74] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 21, pg. 1.
[75] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 21, pg. 2.
[76] Ibid.
[77] Corporate Greed can be associated with economic policies that favor the executive rather than the company itself.
[78] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 26, pg. 27.
[79] Ibid. Seeking disgorgement is a remedy that the SEC uses to force an entity to return any profits (made by participating in illegal conduct) back to its original owner(s).

SEC reserves the right to pursue civil penalties against them with the monetary amount set at the commission's discretion.

In the matter of securities fraud and other related crimes, SOX §807 will find people guilty of these felonies if they deliberately execute, or attempt to execute, "a scheme or artifice."[80] This charge warrants fine(s), imprisonment for up to 25 years, or both, this clause encapsulates anyone who tries to:

- Defraud people in connection with an issuer's security or with a class of securities, as registered under Section 12 of the Securities Exchange Act of 1934;
- Obtain, by way of "false or fraudulent pretenses, representations and or promises,"[81] any money or property from the purchase or sale of securities registered under the above act; or
- Conspire to commit any offense under the same act, which subjugates a person to the same penalties as those prescribed for the securities fraud offense but under SOX §902(a).

MISCELLANEOUS: In this final category of SOX provisions, Congress deliberately isolated the subject of obstruction of justice[82] to underscore how easily a person can become engrossed in illicit activities. By broadening the consequences a commission can impose, §802(a) states:

- "Corruptly alters, destroys, mutilates, conceals, covers up, or falsifies"[83] any company record, document, or other intangible entities;
- Has the intention to "impede, obstruct, or influence"[84] the investigation of any matter within a U.S. department or agency; and

[80] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 27, pg. 2.
[81] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 27, pg. 3.
[82] The aforementioned charge will also warrant fines, prison time up to 20 years, or both.
[83] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 24, pg. 3.
[84] Ibid.

- "Impairs an object's integrity or availability"[85] for use in official court proceedings

IV. CRITICISMS

Just because the Sarbanes-Oxley Act addresses a diverse array of financing issues doesn't mean that all of its auditing provisions are sound or that everyone in the business world concurs with its enactment. Nothing is perfect in this world, and neither are legal statutes, so it's with this common knowledge that society usually judges government actions. However, people in business have taken their criticisms of SOX to another degree. Whether these people object to the act's motive, costs, or scope of authority, their disproval encompasses many complaints.

Individuals against corporate regulations often point to an association fallacy as the basis for their arguments. They think that the federal government was mistaken in creating SOX because the fraud scandals of the early-2000s resulted more from "fundamental incentive problems"[86] than any "new business method"[87] related to fraud. In their eyes, attributing greed to executive corruption is "too simplistic"[88] of an answer because it fails to acknowledge the "risk of detection."[89]

According to this theory, whenever a company enters a stressful situation, its management team will act to the firm's benefit. Whether these actions are deceitful or not, executives will continuously defend them as correct because they believe they're "saving"[90] a company from

[85] Ibid.

[86] Ribstein, Larry E. "Market vs. Regulatory Responses to Corporate Fraud: A Critique of the Sarbanes-Oxley Act of 2002." *Journal of Corporation Law: SSRN Electronic Journal* 28, no. 1 (2002). https://doi.org/10.2139/ssrn.332681.

[87] Ibid
[88] Ribstein, "Market vs. Regulatory Responses to Corporate Fraud," 20.
[89] Ibid.
[90] Ribstein, "Market vs. Regulatory Responses to Corporate Fraud," 23.

"misguided markets."[91] With this rationale in place, an executive isn't subject to moral or ethical constraints. So, the public shouldn't see fraud as caused by management but rather by the "hectic regulatory conditions"[92] that affected them because it is the environment that incites malicious behaviors, not an internal process coming from within. Although the logic behind anti-regulation is clever, the supporters of this cause could not stop SOX from passing, so they shifted their focus to critiquing the act itself.

As a second critique of SOX, compliance requirements have become the most common reason for denunciation as the act's implementation is known for creating additional agency costs. To implement the act's auditing standards, the SEC estimated that complete compliance would initially cost $1.24 billion in the U.S., translating to approximately $100,000 and 27,000 hours of labor per company on average. However, these estimates were severely inaccurate as compliance costs increased yearly since then, reaching $2.5 billion in 2019[93], or approximately $1.4 million per firm with over 100,000 hours in labor. While large corporations may not be as affected by these costs, they can severely hinder smaller companies, affecting their net profits and resource allocation. As a result of this trend, many executives have expressed dissatisfaction with their company's conservative investing approach.

Corporate executives also thought SOX was a "burdensome intrusion"[94] into the makeup of an internal board of directives. For starters, they believed that a board of directors shouldn't be as

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[91] Ibid.
[92] Ribstein, "Market vs. Regulatory Responses to Corporate Fraud," 21.

[93] These statical results came from the following article: Goelzer, Daniel. "Protiviti's Annual Survey Finds Rising Sox Compliance Costs." Audit Update, August 15, 2020. https://www.auditupdate.com/post/protiviti-s-annual-survey-finds-rising-sox-compliance-costs.

[94] Butler, Henry N., and Larry E. Ribstein. *The Sarbanes-Oxley Debacle: What We've Learned; How to Fix It*. (Washington, D.C.: AEI Press, 2006), 23.

independent as the act states because it's unlikely that either an external connection or a minor donation will actually influence director actions. From their point of view, if a company's board of directors is entirely independent, it will only cause "the informed"[95] (those individuals with valuable roles in a company) to be "taken out of the loop"[96] of information. Instead of creating a collaborative environment, company employees will even begin to see these independent members as "watchdogs"[97] that increase conflicts of interest, "divert managerial talent,"[98] and sever the links needed to produce high-quality results.

Besides the executive hesitancies on board composition, executives were wary of the power given to attorneys and the potential chilling effect the act would have on foreign companies and their investors. With whistleblowers gaining virtual immunity and the list of punishable crimes growing extensively, people had concerns that litigating forces could coerce guilty pleas out of executives to avoid the punishments SOX created. As for foreign firms, anti-regulators saw SOX's new governance standards as too high a liability for foreign firms, causing them to decide not to trade in U.S. markets, posing a lose-lose situation for everyone involved in these business interactions.

Given the number of caveats anti-regulators expressed, they felt they could create a "more promising" approach to regulation, so they made their own hypothetical alternative to SOX. In this plan, they would rely more on GAAP[99] than actual legal rules because these principles were

[95] Butler and Ribstein, *The Sarbanes-Oxley Debacle,* 56.
[96] Ibid.
[97] Ribstein, "Market vs. Regulatory Responses to Corporate Fraud," 29.
[98] Butler and Ribstein, *The Sarbanes-Oxley Debacle,* 43.
[99] *See footnote 57* for a breakdown of this acronym.

already extensive as-is and "worked just fine"[100] in the current U.S. marketplace, as stated by Wall Street business analysts. By focusing on this perspective instead, any regulatory or disclosing work should adhere to GAPP because firms can be more "skeptical"[101] about potential fraud alerts with a structure they're accustomed to. Through tactics of market and shareholder monitoring, signaling, global competition, and other privacy regulations, critics felt that companies should recover the trust the SEC had once given them since the scandals of 2001 were just one-off events.

IV.A. REBUTTALS

What good does a piece of legislation serve if it doesn't adjust to the concerns of the people it is supposed to protect? After seeing how adamant some anti-regulators were against SOX, the SEC released various addendums to the original act, hoping to satisfy the demands of everyone involved in the business world. Changes included the adoption of "clear and scalable"[102] standards in audit quality, engaging in "robust dialogue"[103] with stakeholders on data collection, subsidizing certain audit costs, and even increasing "remediation efforts"[104] for firms with reporting mistakes. Through these actions, it was evident that the SEC was willing to listen.

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[100] Holt, Michael F. *Sarbanes-Oxley Act: Costs, Benefits, and Business Impact*. (Oxford, UK: Elsevier Butterworth-Hein, 2008), 89.

[101] Ibid

[102] "Clear and Scalable" is a business term explaining a company's direct plan to multiply revenue while potentially minimizing, or at least impeding, incremental costs.

"Draft 2022-2026 PCAOB Strategic Plan," Public Company Accounting Oversight Board, https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/about/administration/documents/strategic_plans/2022-003-rfc-draftstrategicplan.pdf?sfvrsn=fdc9859a_4.

[103] Ibid
[104] Ibid

However warranted some of the executives' protests were, not all were sensible. Regarding how risk-averse some companies became in their investments, SOX didn't create a securities market "of lemons"[105] where management couldn't distinguish between functional and defective investment decisions. Instead of being so pessimistic, people need to realize that they can still be risk-tolerant, even contrarian, but they must stop short of becoming reckless. Their judgments must hinge on accurate financial numbers, not falsified ones.

As for governance and company structure, SOX doesn't "cripple the genius"[106] of American corporate lawmaking nor prohibit proper communications between businesses. The improper dissemination of information only occurs when a company's contacts have the wrong intentions. It was *this* problem that put executives into the scandals of the 2000s in the first place. Despite the anti-regulatory arguments, the "pendulum"[107] between government oversight and company intrusion hasn't "swung too far."[108] The commission is here to work with businesses, not be against them. At certain times, though, companies need a shadow to remind them of their current standing. How companies react to supervision, though, determines whether the regulatory process will be smooth or challenging.

Lastly, when referencing the alternative plan to SOX, faulty corporations such as Enron and Tyco showed that issuers could not, in principle, work with self-regulation. In most instances, the integrity to act correctly wasn't there, to begin with, so trust shouldn't be handed back. Give an

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[105] Ribstein, "Market vs. Regulatory Responses to Corporate Fraud," 59.
A "Market of Lemons" is an example of figurative language that business use to reflect disappointing investments that underachieve on expected returns, even costing a company some of its "committed capital." Lemon investments are usually associated with "poor money management" and executive fraud.
Twin, Alexandra. "What's a Lemon?" Investopedia, February 8, 2022.
https://www.investopedia.com/terms/l/lemon.asp#:~:text=A%20lemon%20is%20a%20very,or%20just%20plain%20bad%20luck.
[106] Butler and Ribstein, *The Sarbanes-Oxley Debacle,* 65.
[107] Butler and Ribstein, *The Sarbanes-Oxley Debacle,* 100.
[108] Ibid.

inch, and corporations will take a mile, like in 2001, so too much leeway is also a problem. The Sarbanes-Oxley Act can always improve at the margins, but the impact it has in reducing business fraud, especially for domestic firms, severely outweighs the act's potential harm

V. DOMESTIC EFFECTS

Before directly comparing the impacts of SOX on the global stage, it's helpful to analyze the effects of this act on home soil as it can indicate the strength of America's corporations and its legislative forces. Whether an issuing company gets listed as vulnerable to corruption or not, the governance principles set by SOX created a "useful and reasonable"[109] foundation for efficacious business practices in the future. While the provisions in SOX primarily defend against fraudulent activity, the necessary fiduciary awareness also pertains to private companies because the upside received from working with integrity is unparalleled. With the SEC's instructions now put in formal writing, alleviating the anxiety of public minds is easier than ever since regulators can now subject companies to greater scrutiny at all management levels.

Being a compliant firm should not be seen as an "onerous chore"[110] imposed by the federal government. Companies *should* perceive this requirement as an inevitable aspect of corporate development. By reducing negative influences such as theft, "incompetence or redundancies,"[111] and dishonest dealings, SOX even can aid in a merger or acquisition since compliance responsibilities extend to the next owner. For the most part, the Sarbanes-Oxley Act has positively transformed business life in America, but this landmark act isn't confined by these red, white, and blue borders[112]. Through the dispersal of news stories and quantitative results, SOX

[109] Holt, *Sarbanes-Oxley Act: Costs, Benefits, and Business Impact,* 25
[110] Holt, *Sarbanes-Oxley Act: Costs, Benefits, and Business Impact,* 27.
[111] Ibid.
[112] This is an example of imagery with reference to the colors of the American flag.

became relevant in media outlets across the world. So much so that other foreign governments decided to enact similar financial auditing standards in their public governing system, Spain, being a famous example of legal replication.

VI. THE SPANISH INTERPRETATION

VA. HISTORY

Following the devastating events of World War II, Spain became an "international outcast"[113] of sorts, antagonized by the outside world. Due to the country's predisposition to Axis control and the tenacious dictatorship of Francisco Franco, the Spanish economy deteriorated quickly. When the European continent was trying to reconstruct itself, the other Western nations didn't invite Spain to participate in the Marshall Plan[114], nor was Spain allowed to use the new global baking systems (i.e., the International Monetary Fund (IMF) or the World Bank). After seeing this political isolation take full effect, Franco adopted a policy of economic autarky where ideals of self-sufficiency and limited trade would supposedly "provide for Spain's well-being."[115] However, these economic reforms were "poorly coordinated"[116] and implemented "irregularly."[117]

After the government made massive investments into various industrial conglomerates such as the Instituto Nacional de Industria (The National Industrial Institute), SEAT (a mass-market car company), and Empresa Nacional Bazán (a famous shipbuilding company), one could

[113] Solsten, Eric, and Sandra W. Meditz. *Spain: A Country Study*. Washington, D.C.: GPO for the Library of Congress, 1988, 139.
[114] The Marshall Plan was a recovery program designed in 1948 to rehabilitate European economies by offering them monetary assistance, food, fuel, machinery, and any other tools needed to survive the changing world.
[115] Ibid.
[116] Ibid.
[117] Ibid.

assume that Spain would enjoy "considerable economic liberalization."[118] However, this liberalization period did not occur as many public and private enterprise operations remained under state control.

With the public's frustration increasing, Franco tried to neutralize this hostile situation by opting for a technocratic style of government instead. In this federal system, a selection process would occur where individuals would become representatives of the people based on their expertise in a particular field of study. These representatives usually included academic economists, industrial executives, bankers, and even some members of the Roman Catholic Church.

While this strategy allowed Spain to abandon its "autarkical trade practices,"[119] there would not be proper growth until its citizens gained an "interventionist spirit"[120] against Franco. After Franco's death in 1975, the nation could now "divert its attention" toward democratic rule and surpass its "inherited history"[121] of economic inefficiency. By 1978, a constitutional monarchy was re-established, and by 1982, Felipe Gonzalez, a running candidate for the Socialist party, became elected Prime Minister of Spain.

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[118] Harrison, Joseph. "The Economic History of Spain Since 1800." *The Economic History Review* 43, no. 1 (1990): https://doi.org/10.2307/2596514, 80.

[119] Solsten, Eric, and Sandra W. Meditz. *Spain: A Country Study*. Washington, D.C.: GPO for the Library of Congress, 1988, 141

[120] Ibid.

[121] Cortijo-Gallego, Virginia, and Ari Yezegel. "Contagion Effect of The Sarbanes–Oxley Act: Evidence from Spain," *International Journal of Disclosure and Governance.* SpringerLink, (2008): https://link.springer.com/article/10.1057/jdg.2008.6, 143.

As the first leader to transcend the reign of the Franco dictatorship, Felipe Gonzalez was best known for his "pragmatic"[122] and "somewhat orthodox"[123] regulatory policies. In the 14 years that the Gonzalez Administration was of public service, his socialist government was best known for invoking a series of "vigorous retrenchment measures"[124] that superseded the necessity for "heavy debt financing"[125] and political representatives with little-to-no experience monitoring a business *or* a board of directors. Some of these measures include closing large and unprofitable state corporations to allow the nation to recalibrate its economic status. Overall, this plan saw a brief stint of success, but the country was still incapable of "fuel[ing] the industrialization"[126] of the European continent.

Amidst a severe decline in national finances by the late 1980s, Spain once again found itself in a position of susceptibility. The country could either commit to the investment in capital structures,[127] such as bonds and currency deposits, or suffer a complete federal collapse. So at the turning point of this decade, Spain chose to preserve their financial security, embarking on a restructuring period for corporate enterprises. This decision wouldn't only signal an end of fervent state ownership but serve as the commencement for one of the two major accounting reforms in Spanish history. On January 1, 1986, Spain officially joined the European Union as a member state, allowing the organization to implement auditing directives (such as the Structural

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[122] Solsten, Eric, and Sandra W. Meditz. *Spain: A Country Study*. Washington, D.C.: GPO for the Library of Congress, 1988, 142.
[123] Ibid.
[124] Ibid.
[125] Ibid.
[126] Solsten, Eric, and Sandra W. Meditz. *Spain: A Country Study*. Washington, D.C.: GPO for the Library of Congress, 1988, 143.
[127] National Capital refers to the sum of a country's assets relative to the wealth accumulated from five main types of capital structures: The Natural (land, energy resources, biodiversity systems), The Humanistic (Education and a healthy workforce), the Social (Social networks and institutions), Produced Goods (machinery, buildings, and other infrastructures), and The Financial (debt, equity, and stocks), etc.
Institute, Smart Prosperity. "National Capital: What Is It?" ECONOMY-WIDE AND EMERGING ISSUES, 2012. https://institute.smartprosperity.ca/.

Funds, the Cohesion Fund, and the European Regional Development Fund) that drastically changed Spanish business conditions. Now becoming one of the most rapidly growing European economies of its time, the 1990s allowed Spain to consistently achieve lower unemployment rates, higher income, increased production and consumption, and a narrower gap for GDP per capita.

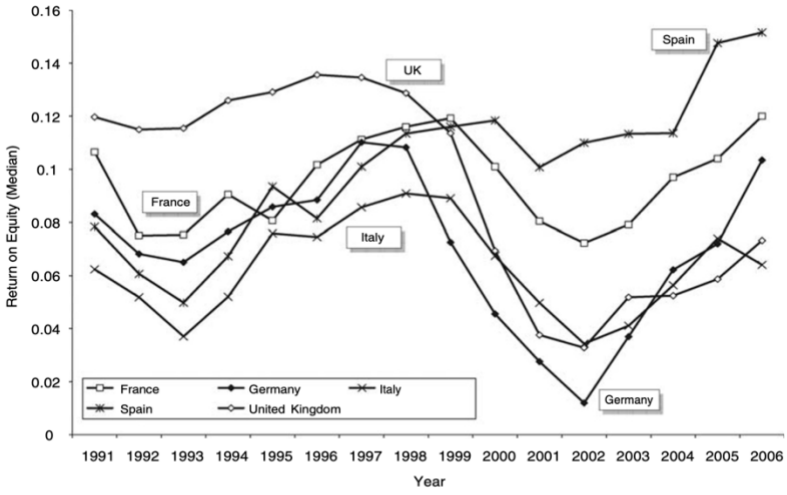

Figure 1: Corporate operating performance in major European economies. This figure illustrates the median annual return on equity of firms listed in English, French, German, Italian, and Spanish stock markets. Return on equity is computed using the Standard & Poor's Compustat Global database (data32/data146). Prior to calculating the median return on equity, values are truncated at the bottom and top one percentile, separately for each country and year group.

As depicted by the graph above[128], Spanish firms have produced a superior operating performance when compared to the profitability of other firms from neighboring countries. With a plethora of positive results coming in, Spain's capital markets could now undergo an expansion by motivating investors to participate in these growth patterns. However, Spain wasn't living in a fully-utopian business world, as firms experienced a lack of internal federal support. Within this reality, companies only had the listing rules of the Ley de Mercado de Valores (Stock Exchange Law), the Comisión Nacional del Mercado de Valores (the Spanish Securities Market

[128] The information illustrated in Figure 1 comes from a 2007 OECD Policy Brief written by C. Giorno and E. Camero, talking about the Economic Survey of Spain

Commission (CNMV)), and the specific exchange they belonged to, as guidelines for their practice. Yet, none of these financial requirements put forth mandates regarding corporate governance.

Once José María Aznar took control of Spain in 1996, though, the national economy began to recover. By 1997, the Spanish government formally created the *Olivencia Committee* with two main goals in mind:

1. To assess the weaknesses associated with a company's board of directors and;
2. Develop a "Code of Good Governance"[129] for the following year; (1998)

Founded only five years before the passing of the Sarbanes-Oxley Act, the Olivencia Committee would have some of the same ideals as SOX but be less burdensome. Within the broad corporate landscape, Olivencia took pride in reflecting a "self-regulating mindset."[130] This was a mindset that merely produced *recommendations* for companies but left the *real* enforcement of financial rules to investors through market enforcement, thus creating a limited impact on the everyday business world itself.

The general idea behind this administrative style was that investors would "reward" firms that met higher corporate governance standards and "punish"[131] the firms with lower scores. Since the controlling shareholders (usually a few individuals) dictate corporate ownership structures in Spain, most executives are fond of this objective of self-regulation. In the U.S., however, ownership structures differ immensely and are usually widely scattered.

[129] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 144.
[130] Ibid.
[131] Ibid.

Despite these glaring issues, Spain continued their move from a "traditional debt-based"[132] financing system to a more "market-based system,"[133] ushering a second revolution of accounting reforms through the adoption of the EU's regulatory law, Regulation 1606/2002.

VB. SOX APPLICATION

After seeing the world economy undergo a period of vast globalization in the 2000s, the European Union wanted to follow suit, hoping to increase the integration of their member states through a "harmonization"[134] process. Couple this desire with the fact that more European multinational corporations were raising capital in U.S. markets, and Law 1606 required that companies "reconcile"[135] their financial statements according to U.S. GAAP and SEC regulations. Since the American Commission didn't accept foreign GAAP statements, this law was the most practical way to generate a linkage between U.S. and Spanish companies.

With Spain now having a fortified set of regulatory protocols *and* an American precedent to follow, the Spanish economy became fully "internationalized"[136] by the following year. On January 8th, 2003, Spain established the *Aldama Committee*, which published a report on Spain's corporate environment and emphasized provisions of the Law on Measures to Reform the Financial System (LRFS or Law 44/2002), the law which most individuals compare to the U.S. Sarbanes-Oxley Act.

Although the enactment of each law was only a few months away apart, SOX and Law 44 were strikingly similar. Emulating the diction choices made in the exemplary document, Law 44

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[132] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 2, Ch. 11, pg. 38.
[133] Ibid.
[134] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 146.

[135] Cañibano, Leandro, and Jose-Luis Ucieda. Accounting and Financial Reporting in Spain, January 2006. https://www.researchgate.net/publication/280951431_Accounting_and_financial_reporting_in_spain, 7.

[136] Cañibano and Ucieda, "Accounting and Financial Reporting in Spain," 2.

took a keen interest in protecting both investors and companies in the long run. With these intentions in mind, the Spanish government was able to echo the following SOX requirements in their legislation:

1. A company should divide its executive directors into three groups:
    a. "Internal executive directors"[137]: board members who have management functions in the company;
    b. "Domanial external directors"[138]: board members who own a stable participation in a company's share capital; and
    c. Independent external directors: board members who possess valuable experience and knowledge but don't currently (or in the past) have ties with the company.
2. For insider trading situations or any activity that manipulates equity pricing, the penalties for these crimes will increase to prevent "adverse effects"[139] of related party transactions.
3. Auditors must have a "life-long education"[140] and take the formal Unified Examination Access Test at the Registro Oficial de Auditores de Cuentas (Official Registry of Auditors).
4. Auditors must disclose all present conflicts of interest between the analyst's employer and the investigating auditing firm in their reports.
5. There must be a threshold period from which auditors may be hired annually (an initial period of no less than three years and no longer than nine years).
6. For large companies with public oversight, there must be a rotation of auditor and committee members after seven years.

[137] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 147.
[138] Ibid.
[139] Ibid
[140] Cañibano and Ucieda, "Accounting and Financial Reporting in Spain," 9.

7. The Instituto de Contabilidad y Auditoría de Cuentas de España (The Accounting and Auditing Institute (ICAC) can sue any auditor for mis-fulfilling their duties.
8. The ICAC can control and oversee auditing plus collect a fee for every auditing report.

While there are many similarities between SOX and Law 44, there are also several differences that Spanish legislators chose to include in their "White Book"[141] on accounting. Especially prevalent in its discussion of auditing committees, Law 44 has the committees themselves—rather than the Chief Auditing Executive (CAE) like in the U.S.—supervise internal audit functions. Law 44 also requires that auditing committee membership be composed of only "outside directors,"[142] but beyond these requirements, the extent of this law's legal jurisdiction ends here.

Law 44 *does not* describe, in any of its articles, a particular ruling on the necessary size of an auditing committee, how frequently a committee shall hold its meetings, the responsibilities a member must adhere to, or if auditing reports should include a disclosure of internal controls. The decisions for all these matters fall to the Spanish companies themselves, reciprocating the vague, inauspicious, and utterly imprudent suggestions of the Olivencia Committee.

The more that Spain tries to leave financial regulations to pure market forces, the easier it is to see why this approach is faulty. Although this statement is relatively frank, Spanish citizens also resonated with this ideology as they thought the current provisions weren't sufficient, only "reflecting the spirit"[143] of fiduciary control. So on July 17, 2003, the Transparency Law: Law 26/2003, was passed alongside other corollary provisions, increasing the transparency of listed companies by requiring that:

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[141] Cañibano and Ucieda, "Accounting and Financial Reporting in Spain," 10.
[142] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 143.
[143] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 147.

1. Companies prepare and publish yearly corporate governance reports referencing ownership and management structures;
2. Companies must explain the rights of investors, particularly on the topic of representation (i.e., electronic voting);
3. Companies must describe the obligations of a manager with virtues of diligence, fidelity, and confidentiality in mind; and
4. Companies must create a website[144] that provides relevant financial information so shareholders and the general public can make informed decisions and get a "faithful representation" of the company.
    a. Companies must also periodically update this website and, at a minimum, include information about their assets, transactions, administration, annual meetings, and explanations of levels of compliance (in cooperation with the Aldama Report).

In terms of disclosure, shareholder suits, and investor protection index, Spain still lags behind other OECD countries (e.g., France) that have either a long-established legal system or ample experience in corporate auditing. With the 2007 World Bank Business Report[145] reiterating this point, it's clear that Spanish financial regulations still need refinement to match the levels of control in SOX, especially since the following year, the global financial crisis loomed over the country, "puncturing"[146] the "property bubble"[147] it was developing.

To counteract the doubts made in the early 2000s, Spain would enact two smaller laws in the coming years, hoping to close the aforementioned gap with their American ally. In accordance with the Spanish Civil Law tradition, the first law that legislators passed was the *Ley de*

[144] *See Appendix C*
[145] *See Appendix D*
[146] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 148.
[147] Ibid.

Sociedades de Capital Para La Mejora del Gobierno Corporativo (The Capital Societies Law to Improve Corporate Governance or Law 31/2014) on December 3, 2014. While this law gained praise for various reasons, the way it could "codify a director's duties" was most impressive. Under Chapter III Articles 225 – 230, an executive director must act with "reasonable care, diligence, and loyalty"[148] toward their company.

Mirroring SOX in this respective, Law 31 also mandates that executives avoid any conflict of interest that could jeopardize "las buenas prácticas de la gestión empresarial;"[149] the necessary measures to ensure the proper control and working of a company. Throughout the paragraphs of each sub-article, this law would even reiterate the phrase, "un ordenado empresario,"[150] or skilled businessman, to truly accentuate how fortunate an executive is to be in such a leadership position.

As Spain's final and most recent auditing law, Law 22/2015 passed on July 20, 2015, with a particular focus on the auditing of financial statements and the burden of liability for auditing firms. Regarding the content of financial statements, any public company or entity, "irrespective of their legal form,"[151] is obligated to have these statements audited if they bear embody any of the following situations:

1. Those who issue securities and admit to trading on official secondary securities markets;
2. Those issuing debentures[152] for sale to the public;

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[148] ABDUSSAMAD, SULAIMAN. "AUDITOR LIABILITY TO THIRD PARTIES IN SPAIN AND THE UNITED STATES: A COMPARATIVE STUDY." Thesis, PABLO OLAVIDE UNIVERSITY, 2015, 29.

[149] Ibid.
[150] Ibid.
[151] Ibid.
[152] A debenture is a business term used to describe a type of unsecured bond or loan that a company issues with collateral and "general credit" rather than "specified assets."
Chen, James. "Debenture Explained, with Types and Features." Investopedia, April 25, 2023. https://www.investopedia.com/terms/d/debenture.asp.

3. Those engaging in financial intermediation activities;
4. Entities whose purpose includes any of the activities regulated by the Private Insurance Regulation and Supervision Law;
5. Entities that receive government grants or any other type of aid and either perform work for, render services for or make supplies to the State and other public bodies; and
6. All other entities that exceed certain limits defined by the government in Article 263 of the 2010 Royal Decree.
    - Per this article, companies must still have an external audit of their financial statements if they exceed[153]:
    a. Total assets of €¨2,850,000 or less.
    b. An annual turnover of €¨5,700,000 or less and;
    c. Have an average number of employees during the year of 50 or fewer.

As for an auditor's liability toward thirty parties, any auditor or auditing firm, under Law 22 Article 1902, will "respond to the damages they created"[154] for not complying with their corporate responsibilities. This clause closely resembles the disgorgement funds stated in SOX §308, but instead of the executive being primarily at fault, the auditor is found liable. Another obvious difference is that this specific article has to be interpreted "in conjunction"[155] with arbitrary requirements of "fault, causation, and action or omission."[156]

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[153] ICEX. "III.8 Auditing Requirements." Guide to Business in Spain, June 15, 2022. https://www.guidetobusinessinspain.com/en/iii-legislacion-en-materia-de-sociedades/iii-8-auditing-requirements/.

[154] ABDUSSAMAD, SULAIMAN. "AUDITOR LIABILITY TO THIRD PARTIES IN SPAIN AND THE UNITED STATES: A COMPARATIVE STUDY." Thesis, PABLO OLAVIDE UNIVERSITY, 2015, 31.
[155] Ibid.
[156] Ibid.

Whereas in the U.S., the courts almost immediately side with the employee, Spain gives their court system more flexibility when deciding cases. With a heavy reliance on the Spanish Civil Code, legislators state that third parties are not always the "indirect victim,"[157] and their prima facie[158] "right to recovery"[159] will initially be in doubt. The courts can even avoid ordering compensation by using this harsh tactic for those cases they deem "too remote" or outlandish.

Although the American Sarbanes-Oxley Act inspired these Spanish financial auditing laws, the scope of stringent legal writing hasn't been the same since 2002, nor will it ever be a one-to-one equivalent. This is not to say that Spain failed with its original goals, though. The country is certainly moving in the right direction, and its laws are an improvement from the past. Regardless, both countries have seen their legal documents produce various impacts still felt today.

VII. GLOBAL RESONATING IMPACTS

Regardless of how *Americanized* the origins of SOX are, it is astonishing how this act created a sphere of influence over the international financing system. While approximately 20 years have passed since the U.S. government enacted SOX and the Spanish government enacted Law 44, these legal provisions still affect accounting and auditing procedures today. Granted, some of these fiduciary effects are more significant to a company than others, but the initial impact of these laws has prevailed.

As shown in a 2007 survey that Professor Virginia Cortijo-Gallego and doctoral candidate Ari Yezegel conducted at the Rutgers Business School, the public can measure the

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[157] ABDUSSAMAD, SULAIMAN. "AUDITOR LIABILITY TO THIRD PARTIES IN SPAIN AND THE UNITED STATES: A COMPARATIVE STUDY." Thesis, PABLO OLAVIDE UNIVERSITY, 2015, 36.
[158] Prime facie is a Latin legal term for *proof of the first* fact; or the first impression received. This definition determines if the second facts of a case can go beyond that *reasonable doubt* threshold.
[159] Ibid.

"contagion effect"[160] SOX had on Spanish corporations by looking at the IBEX-35. The IBEX 35 is a benchmark index for the Madrid Stock Exchange that contains the 35 "most liquid"[161] Spanish stocks that get traded in the continuous market. Out of the 35 company stocks that received questions, five of them were already cross-listed on the New York Stock Exchange, so they were excluded from the final results because they already followed SOX disclosure agreements in submitting 20-F reports. With the remaining stocks, though, most parent companies professed that they didn't comply with the Sarbanes–Oxley Act nor increase their voluntary disclosure to meet SOX's higher corporate governance standards. Since these 30 company stocks didn't have shares "floating around"[162] in U.S. financial markets, Spanish disclosure requirements were adequate enough. While SOX may have had a "fairly limited"[163] impact on the "voluntary"[164] disclosure practices of Spanish corporations, it did considerably raise the threshold for financial regulations and total corporate governance standards in Spain.

If voluntary disclosure is the criteria used to determine how effective a country's regulations are, then SOX, and subsequently Law 44, failed in their respects to incite the proper changes. However, if a person, investor, or company looks at financial regulations holistically, SOX and Law 44 both achieved tremendous feats. With respect to technological advancements and the "tech arms race,"[165] the amount of information required in auditing reports created a need for processing units that could uncover insights about the deficiencies in a company's surface-level controls. Because accounting practices rely on human-powered manual tests, there are

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[160] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 140.
[161] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 145.
[162] Ibid.
[163] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 142.
[164] Ibid.

[165] AudtiBoard. "Sox Trends for 2023: Budget Pressure, Economic Instability, and More." January 5, 2023. https://www.auditboard.com/blog/sox-trends-2023/.

many inherent limitations on the accuracy of auditor reports and the amount of data accessible at one time. So in April 2005, the U.S. established the XBRL Voluntary Financial Reporting Program, a subcomponent of the EDGAR System. Known for facilitating SEC "data tagging"[166] in registrants, the program calls for companies to:

- Submit and tag financial information as supplementary exhibits that use the XBRL format (HTML or ASCII), as specified by EDGAR, and meet the requirements under the Exchange Act of 1934 and the Investment Company Act of 1940[167]

After seeing how orderly and cost-effective this virtual program was in the U.S., Spain decided to integrate XBRL software into their electronic system (CIFRADOC) two months later. By allowing the exchange of financial information to have "greater agility and efficiency,"[168] Spanish regulators could ensure online document submissions were "authentic, had integrity, and were confidential."[169] This partnership also allowed the Spanish and American governments to monitor the communications sent between companies through the "destination mapping"[170] program, which uses electronic coding and sets of private keys to encrypt any searches made.

This union between American software engineering programs and Spanish internet models was only a precursor to a long and mutually-benefitting relationship between the two nations. With this connection withstanding the test of time, collaborative work would also happen well into the 2010s. On July 19th, 2012, the American-based PCAOB (the Public Company Accounting Oversight Board) entered into a "cooperative arrangement" with the Accounting and Auditing Institute of Spain (the Instituto de Contabilidad y Auditoría de Cuentas: ICAC). In this

[166] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 149.
[167] Ibid.
[168] Ibid.
[169] Ibid.
[170] Ibid.

newfound agreement, each country accepted terms to conduct "joint inspections"[171] of auditing firms, subject to their regulatory jurisdictions.

Using the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act to organize this agreement, the U.S. government amended SOX to permit the PCAOB to share confidential information with their counterpart Spanish regulators under certain circumstances. This agreement also allowed the 16 auditing firms in Spain to receive U.S. data protection on top of the EU's privacy act(s). Since the U.S. made similar agreements between themselves and other European[172], Middle Eastern, and Asian countries in the past, it was clear that American forces wanted to be a "leader in bilateral and multinational efforts."[173]

By cooperating with Spain on this "cross-border supervision"[174] of auditing firms, the U.S. was only extending the reach of the Sarbanes-Oxley Act. Without the Sarbanes-Oxley Act transforming company regulations, Spain would not be able to rectify its financial standards, nor would other countries have entered into these cooperative agreements as soon as they did. While SOX should receive praise for inspiring various business changes, executives still overlook its influence, making the act severely underappreciated in society lately.

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[171] Doty, James R., and Ana Maria Martínez-Pina. "STATEMENT OF PROTOCOL BETWEEN THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD OF THE UNITED STATES AND EL INSTITUTO DE CONTABILIDAD Y AUDITORIA DE CUENTAS DE ESPAÑA." Cooperative Agreement - Spain, July 2012. https://assets.pcaobus.org/pcaob-dev/docs/default-source/international/documents/cooperative_agreement_spain.pdf?sfvrsn=c5fbad7c_0.

[172] Ibid. *The countries referenced include the United Kingdom, the Netherlands, Germany, Switzerland, and Norway.*

[173] Ibid

[174] Ibid.

VIII. CONCLUSION

As businesses continue to suffer from the occasional example of malignant corporate corruption, having a solid regulation structure in place is a dire necessity. Being one of the first all-inclusive laws of its kind, the Sarbanes-Oxley Act became a cornerstone of financial disclosure standards. As an exemplar of judicious control within businesses, the rigidity of this law sent "shockwaves"[175] to various countries around the world, especially Spain. By giving the SEC "new weapons"[176] to deter illegal securities conduct, the act, as described by former U.S. Representative Michael G. Oxley himself, has seen an "unmitigated success"[177] from its scandalous origins, carrying over into the present.

Although SOX has ensured corporate compliance in the states, this wasn't always the case in Spain. After witnessing a "blizzard of regulatory activity"[178] in its own markets, Spain answered the wake-up call by adapting to the modern financial philosophy. Through the convergence of American auditing standards and the Spanish legal background, this international alliance proved highly effective. While Spain deviated from some SOX provisions in their signature law (Law 44), the country's objectives remained the same: to pull back the "corporate veil,"[179] urge executives to take accountability for their actions and resonate with the plight of harmed investors and employees.

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[175] Cortijo-Gallego and Yezegel, "Contagion Effect of The Sarbanes–Oxley Act," 141.
[176] "The Impact of the Sarbanes-Oxley Act: Hearing before the Committee on Financial Services, U.S. House of Representatives, One Hundred Ninth Congress, first session, April 21, 2005.," 53.
[177] U.S. House of Representatives "The Impact of the Sarbanes-Oxley Act," 56.
[178] Bostelman, *The Sarbanes-Oxley Deskbook*: Vol. 1, Ch. 1, pg. 1.

[179] Bainbridge, Stephen M. *The Complete Guide to Sarbanes-Oxley: Understanding How Sarbanes-Oxley Affects Your Business*. Avon, MA: Adams Media, 2007.

Amidst the regulatory accomplishments in the U.S. and Spain, criticism also arose, calling for an anti-regulation movement. While both auditing laws (SOX and Law 44) evolved from a hostile corporate world, there has been more bipartisan concurrence for these acts than pessimistic disassociation. With this recognition, it's evident that these laws had more marginal benefits than marginal costs. Neither law is flawless: each document has adjusted its terminology over time, but these stiffer provisions have sensitized auditing commissions to accurately judge those deceitful "white collar crimes"[180] and make "the time fit the crime."[181]

Nonetheless, corporate culture has undergone a formidable shift toward transparency since a company *cannot* succeed if they feel uncomfortable disclosing financial strengths *and* weaknesses. If any executive believes the opposite ideal, they are simply thinking credulously.

However, this hasn't just been a top-down process; it's also been bottom-up. As SEC Chairman William H. Donaldson states, executives may set the "tone at the top"[182] for financial reporting…but all employees "owe a duty"[183] to their company by acting with integrity and having an innate sense of honesty that reflects in their work. Showing negligence is no excuse for being oblivious, so companies cannot allow greed to plague their internal structures again.

All in all, the Sarbanes-Oxley Act was a transcendent legislative document that set an international precedence for regulation and changed accounting, auditing, and business practices forever. Much work still needs to be done, but as long as companies "learn from history" and respect the law, they will not be "doomed to repeat"[184] the discreditable behaviors of past firms.

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[180] U.S. House of Representatives "The Impact of the Sarbanes-Oxley Act," 60.
[181] Ibid.
[182] Ibid.
[183] Ibid.
[184] This was a famous quote by Winston Churchill in his 1948 speech to the British House of Commons.

APPENDIX A:

EXAMPLE OF DIFFERENCES FOUND IN THE CONGRESSIONAL VERSIONS OF THE SARBANES-OXLEY ACT

Table 1. Comparison of Provisions of the Sarbanes-Oxley Act of 2002: House, Senate, and Conference Versions

Provision	H.R. 3763 (House)	H.R. 3763 (Senate)	Conference Version
I. Creation of a New Auditor Oversight Board.			
Name of new regulator	Public Regulatory Organization	Public Company Accounting Oversight Board	Follows Senate bill
Number of board members	Five	Five	Five
Board composition	Two members would be accountants with recent experience in auditing public companies; two could be CPAs, provided they had not worked in the accounting industry for 2 years; and at least one member must never have been a CPA	Three must never have been accountants; two may be accountants, but if an accountant is to be chairman, he or she must not have been in active practice for 5 years	Follows Senate bill
Scope of board's activity	(1) to review auditors' work product, (2) to enforce (but not set) standards of competency and professional ethics, and (3) review conflicts of interest between auditors and their clients.	(1) set auditing, quality control, and independence standards, (2) inspect the auditing operations of public accounting firms (required to register with the board and file annual reports if they audited public companies), and (3) investigate violations of securities laws, standards of ethics, competency, and conduct set by the accounting profession, and the board's own rules	Follows Senate bill
Who must register with the board?	No registration requirements	All accounting firms that audit public companies	Follows Senate bill
Standard-setting powers	None	Would set auditing, quality control, and independence standards	Follows Senate bill

APPENDIX B:

EXAMPLE INTERNAL CONTROL REPORT DONE BY A REGISTERED AUDITING FIRM (SHOWN AS TWO PAGES)

Attachment B
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INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To the Partners of
ABC Limited Partnership
DBA ABC Apartments
City, State

USDA Rural Development
Servicing Office
City, State

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of ABC Limited Partnership, which comprise the balance sheet as of December 31, 20X2, and the related statements of operations, changes in partners' equity and cash flows for the year then ended, and the related notes to the financial statements, and have issued our report thereon dated DATE, YEAR.

Internal Control Over Financial Reporting
In planning and performing our audit of the financial statements, we considered ABC Limited Partnership's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of ABC Limited Partnership's internal control. Accordingly, we do not express an opinion on the effectiveness of ABC Limited Partnership's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

ABC Limited
Partnership
Independent Auditors'
Report on Internal
Control Page Two

Compliance and Other Matters
As part of obtaining reasonable assurance about whether ABC Limited Partnership's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report
The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of ABC Limited Partnership's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering ABC Limited Partnership's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Firm's signature
City, State
DATE, YEAR

APPENDIX C:

OECD TABLE COMPARING FINANCIAL PROTECTION SCORES FOR COUNRTRIES AROUND THE WORLD

Table 1: Investor protection levels across OECD countries

Country	*Disclosure index*	*Director liability index*	*Shareholder suits index*	*Investor protection index*	*Overall rank*
New Zealand	10 (1)	9 (1)	10 (1)	9.7 (1)	1
Ireland	10 (1)	6 (5)	9 (2)	8.3 (2)	2
Canada	8 (5)	9 (1)	8 (4)	8.3 (2)	3
United States	7 (8)	9 (1)	9 (2)	8.3 (2)	4
United Kingdom	10 (1)	7 (4)	7 (6)	8 (5)	5
Belgium	8 (5)	6 (5)	7 (6)	7 (6)	6
Japan	7 (8)	6 (5)	8 (4)	7 (6)	7
Norway	7 (8)	6 (5)	7 (6)	6.7 (8)	8
Denmark	7 (8)	5 (10)	7 (6)	6.3 (9)	9
Portugal	6 (14)	5 (10)	7 (6)	6 (10)	10
Australia	8 (5)	2 (22)	7 (6)	5.7 (11)	11
Finland	6 (14)	4 (16)	7 (6)	5.7 (11)	12
Sweden	6 (14)	4 (16)	7 (6)	5.7 (11)	12
Italy	7 (8)	4 (16)	6 (15)	5.7 (11)	14
Korea	7 (8)	2 (22)	7 (6)	5.3 (15)	15
France	10 (1)	1 (24)	5 (18)	5.3 (15)	16
Iceland	5 (18)	5 (10)	6 (15)	5.3 (15)	16
Spain	5 (18)	6 (5)	4 (21)	5 (18)	18
Germany	5 (18)	5 (10)	5 (18)	5 (18)	19
Netherlands	4 (21)	4 (16)	6 (15)	4.7 (20)	20
Austria	3 (22)	5 (10)	4 (21)	4 (22)	21
Luxembourg	6 (14)	4 (16)	3 (24)	4.3 (21)	21
Switzerland	0 (24)	5 (10)	4 (21)	3 (23)	23
Greece	1 (23)	3 (21)	5 (18)	3 (23)	24

This table reports disclosure, director liability, shareholder suits, and investor protection index levels derived in the Doing Business Project of the World Bank Group. The data was obtained from the project's website: http://www.doingbusiness.org/CustomQuery/. The first column indicates the country and the subsequent four columns report the corresponding index levels. In parentheses are the rankings of countries within the group of OECD members. The final column is an overall rank based on the sum of the four index levels. The country with the lowest aggregate index level is assigned the best ranking. All rankings in this table are computed by this study hence do not represent the ranking of the World Bank Group.

APPENDIX D:

EXAMPLE OF SPANISH REQUIREMENTS FOR A COMPANY'S DISCLOSURE WEBSITE

Table 2: Mandatory content of websites

General information about the company	*Contact:* • Mail and e-mail addresses • Telephone number for investors (if it exists) • Any other channel of communication *Stocks and equity (structure of the share capital):* • Number of stocks • Distribution among different kinds of stocks • Table with the evolution of share capital • Stock Exchange listings *Investor's calendar (important dates for the shareholder):* • Publication of company results • General shareholder meetings • Payment of dividends • Any other important activity *Dividends:* • Date of dividend distribution • Gross/net dividend per share • Type of dividend Current Corporate Bylaws Communications of relevant facts (Spanish Stock and Exchange Commission filings); (the company has to declare that these facts are the same that the ones that have been submitted to the Spanish Stock and Securities Exchange) Treasury stocks and significant shareholdings
Financial information	Periodic public information (periodic filings: quarterly) Auditing report, Audited financial statements, management report and annual report Information submitted to other regulators in case this information is different from the one prepared according to Spanish standards *Credit ratings, if the company asked for it:* • Name of the rating company • Investment grade and description of the rating • Date of last review
Corporate governance	Regulation of the general shareholder's meeting General shareholder's meeting: • Call and agenda • Proposals and reports • Right to attend general meetings • Voting entitlement • Composition of the shareholder's meeting • Quorum and results of the vote Shareholder's agreements Board of directors