**AUSTRALIAN BANKERS' ASSOCIATION**

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Mr Jonathan G Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609
By email: rule-comments@sec.gov

Dear Mr Katz,

**File Number 4-497**
**SEC Roundtable on Implementation of**
**Sarbanes-Oxley Act Control Reporting Provisions**

The Australian Bankers' Association (Association) is the national organisation of the overwhelming majority of licensed banks in Australia. It is a non-profit association funded by its 25 member banks. The Association's membership includes traditional retail banks, wholesale and foreign banks. The mission of the Association is to improve the economic wellbeing of Australians by fostering a banking system recognised as one of the safest, most dynamic and most efficient in the world. The Association represents its member banks on wide range of regulatory matters.

According to latest available figures member banks of the Association have resident assets of $AUD 1.126trillion ($USD 871 billion) representing 91.9% of all resident banks' assets and resident liabilities of $AUD 785,878 billion ($USD 607 billion) representing 96.4% of all resident banks' liabilities.

Market capitalisation of the Association's members totals $AUD 194.5 billion ($USD 150.6 billion) representing 25% of the S&P ASX 200.

The Association is pleased to have the opportunity to comment on its members' experiences with implementation of section 404 of the Sarbanes-Oxley Act of 2002 (Section 404). In providing its comments, the Association appreciates that it may have missed the closing date for comments ahead of the roundtable that met on 13 April 2005. The Association hopes that in providing its comments at this stage this does not unduly inconvenience your consultation process and that the comments are helpful. The Association apologises for any inconvenience. The Association has tried to keep its comments succinct.

There are two matters concerning the implementation of Section 404 that the Association believes are neither desirable nor intended:

1. the disproportionate emphasis that has arisen on transaction level controls over entity level controls; and

2. the absence of some recognition of certain home regulator regimes.

The Association supports the broad objective underlying section 404 in improving the accuracy and reliability of corporate disclosures and investor confidence.

**The need for Proportionality of Implementation**

Difficulties with the interpretation and application of section 404 have led to some very costly, time-consuming and resource intensive implementation processes that the Association believes could work against achievement of the overall objective of the section.

Major corporate collapses such as Enron and Worldcom have been characterised by failings at the highest levels of the companies concerned resulting in misleading financial statements and reporting over a period of time. Typically these failings have involved a small group of people at the Chief Executive Officer and Chief Financial Officer levels and those who report directly to those positions.

Through interpretations driven by the Public Company Accounting Oversight Board auditing standards for implementation of Section 404, companies are required to thoroughly identify, document, monitor and test their internal controls over financial reporting at all levels in the company. Significantly, auditors have undertaken the process design for the implementation of Section 404 following the PCAOB's interpretation guidance. This is unfortunate as this trend distances director's involvement in the design and implementation process.

This means, in effect, a company taking a bottom up approach. The Association's concern is that this has produced an imbalance in emphasis with transaction level controls over entity level controls. The risk is that these detailed transaction level processes could create a sense of complacency within companies and by investors when history has shown that the real problems can arise at CEO, CFO and directly related levels. This clearly cannot be an intended outcome of Section 404.

It is those officers within the company that stand to gain the most from non-compliant behaviour and adoption of a bottom up approach potentially reduces the prospect of their detection.

Auditor designed implementation of Section 404 also has a strong auditor self interest aspect. It is inevitable that an auditor's implementation design will be highly detailed so as to afford them protection in the face of regulator or court initiated challenge.

The Association believes that these outcomes are neither desirable nor intended.

The Association believes that the review and roundtable consideration of Section 404 is both desirable and timely.

In the course of its deliberations your Commission is encouraged to look at ways in which the objectives of Section 404 might be achieved more effectively, efficiently and at lower cost to companies. This would entail a careful examination of the role that

financial accounting and reporting processes play to ensure they are effective in detecting misconduct at the highest levels of a company and that investors are not misled as to the true state of affairs of the company. It is envisaged that through a consideration of these matters companies will be able to reduce their compliance costs and deliver greater certainty and confidence to investors.

The Association would welcome the opportunity to contribute directly to that evaluative process.

**Recognition of Home Corporate Governance**

Commenting on behalf on Australian banks operating in the US, the Association notes that Australia's own corporate governance regime has the same or similar objectives to those of the Sarbanes-Oxley Act of 2002. Australia's Corporations Act was substantially amended in 2004 increasing the accountability and independence of auditors and officers. The regulatory powers of the Australian Securities and Investments Commission (ASIC) also have been augmented.

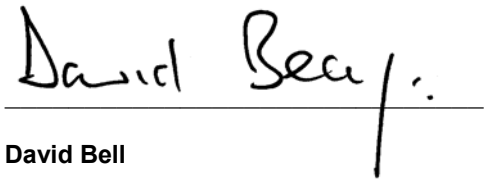
Another example of Australian regulatory culture is the fact that Australia has moved to adopt the International Financial Reporting Standards as of 1 January 2005.

Australia is not alone in the world in having demonstrated a strong regulatory framework with strong regulations and a strong regulator. It is worthy of note that in many of these jurisdictions there is little history of companies operating within the rules of their home regulation to find themselves non-compliant with the substance of US regulations. The costly outcomes now being experienced by Australian companies operating in the US from the implementation of Section 404 have been exacerbated by immaterial differences between the laws of the respective jurisdictions.

The Association is aware that ASIC has been in discussions with both your Commission and the PCAOB with a view to possibly addressing some of these compliance inconsistencies. The Association believes that greater recognition by the US of the adequacy of Australia's corporate governance regime would be an appropriate first step in bringing about beneficial outcomes for investors through reduced compliance costs and greater confidence in the integrity of the companies in which they have invested.

The Association hopes that its comments are of assistance in the further deliberations on Section 404.

Yours sincerely,



**David Bell**