

Comments on File No. 4-497  
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Knowledge Point International  
Darrell Beitel - Founding Principal  
2109 Brassfield Rd  
Greensboro, NC 27410  
[dbeitel@earthlink.net](mailto:dbeitel@earthlink.net)  
Phone: 336-282-1413

We at Knowledge Point International (KPI), in affiliation with Expert Process Solutions (EPS), have extensive experience in appropriate business flow process understanding and corresponding business controls (gained through best practices and personnel backgrounds). We are a group of S&P 500 C level executives (and associates) who specialize in the streamlining and accurate definition to a company's business model. The obvious intersection of the Sarbanes-Oxley Act §404, the COSO Framework principles, Audit Standard No. 2 and the PCAOB governance authority results in an organization instituting good business practice(s) --- a goal which can be assisted greatly through application of well-evolved product & service offerings available today for any well run business. We have witnessed where those organizations embracing and executing necessary action steps (in support of the legislation) are able to arrive at a space where it becomes natural for a closed loop ongoing process for the long haul with real return on investment.

What we have found successful organizations use a simple equation of *people + process = results* in nearly all facets to the business. With this in mind, it should be clear that any result is only as good as the interpretation, true execution, ongoing ethics, leadership and especially ongoing improvement of the entire equation. Certainly, simply installing redundancy in controls in order to comply with the new legislation and rules is not the cost effective answer ---- nor is automation "fixes" which theoretically put all concerns to bed. The "Royal Audit Guard" is a reactive approach and does not provide the real time intelligence for proactive correction as warranted. In short, for the SOX legislation to be successful long-term the underlying principles have to become a way of life and embraced culturally by the organization to drive growth (organic or acquisition), productivity and streamlined infrastructure improvements. There are no absolute shortcuts, but there are effective means to teach compliance and how it needs to be adhered to throughout the organization to truly result in satisfactory "compliance scores" (in accordance with the law's intent).

Considering the above, we have run into many situations expressing confusion over the guidelines and the expected results inherent to the "new" legislation. A few comments are listed here for all to see:

1. CEO and CFO delegation of work, when simplified, is not to practically lead "compliance" no matter what new reality sets them up. In fact, the process seems to be a "we have that already works, maybe with some tweaking". This combined with a "your fired excuse base of the underlying people defense" is a common affair. We see many folks who do not see the need to change, control or dig in rather than to add some folks and a legal disclaimer supported by a "file". You would be surprised at the leadership hot potato of: "If we think we need help, we are saying we know there is a problem; so use discrete resources and routines that shield us and we will sign the results" is an opinion in many companies. There is very little understanding of the management assessment and what needs to happen. By the way, it is our opinion you cannot "assess" change without real change.
2. No one seems to know who says you are in compliance or who says you are not compliant without results being a failure first? The standards and etc. even say your audit firm cannot do it or even comment about it (we suspect neither side seems to really get this).

3. There are not generic compliance models for big or small companies to benchmark. Total compliance in their view seems to be an “it’s an accounting issue” not an overall business attitude. We also see this being an excuse to hire more and even dedicated folks in accounting. Reminds us of the Y2K fiasco.
4. Many people blame systems as well. In practice, we know of several companies who say their new system changes and ERP layouts will gain compliance. We give this a big “here we go again”.
5. Many folks are creating a due diligence file to support what they are doing. Given the timeline for compliance confusion and the “not really my problem” that exists in many businesses, it is believed this will result in a hand slap until more is shown or given as to “what is not compliant”. People believe, if they have a restatement or other regulated problem, they can say we found this due to the new regulations and laws and get away without fundamental change. We believe the real intent of the new way is for the total organization to comply and live with fundamental, accurate and compliant good business; which also enhances total business performance.
6. You would think companies would be absorbing all available resources to give independent reviews of their processes and recommend actions to look at what they really do. This message is being heard by the big companies, albeit possibly inefficient, but the small company resources do not realize that compliance is not a big expensive “new thing” but proper and prudent. We and others have people and tools to do this very fast (1 to 3 months in a large majority of cases) and with a quick low cost ROI of real investment (not avoidance expenses). Attorneys of companies seem to get this best of all, but often because they are pre-determining how they would defend the company without getting the change we all desire. Why do you think that is? Our opinions are just like many others: Want an excuse to add people, new systems, secondary inefficiencies, empires? You can near term adjust current or forward looking forecasts of spending or earnings and add other stuff beyond just what is required. Scream timing and cost and you get relief. We hate to be blunt, it is what we see.

There is a need to take the confusion and excuses away. Look at items 1 to 6 carefully, both individually and in combination. A lot of what is mentioned here can be validated by stepping back and looking at the motivation/confusion of each of the critical players. The definition of the process necessary to meet the requirements and the anticipated results vary greatly among respondents; implying then there will be a great deal of variability afforded as to what’s judged satisfactory (for true compliance). If this variability in SOX outcomes is what the SEC enforcement agency and the public markets expect, then perhaps all is on course. The attorneys of the world, both internal and external, should not be the lever in challenging whether the individual organization has put adequate resource to the achievement of total business practice review (as they can best interpret it through their reading of outtakes of the law). However, without other authoritative voices providing direction, they have the obligation to become as informed as possible in their counsel to respective management and anxiously await future precedent to be set through yet to be disciplinary actions.

This forum for public comment is a very good process which will hopefully bear fruit in helping define this new world of compliance requirement. Our best regards to all who are participating and spending time with it. We strongly expect there will be active participation and look forward to reading the comments of others. We look upon participation in this type of vehicle as a way of manifesting one’s own recognized professional accountability to “compliance understanding”.

Sincerely,

Darrell Beitel  
Founding Principal KPI

CC KPI/EPS:  
Dave Eshleman  
Ken Carlson  
Mike Stenhouse