

SARBANES – OXLEY RULES

by Sally Ramage®



The United States' Securities and Exchange Commission (SEC) has adopted new rules relating to internal controls over financial reporting and certification of disclosure in Exchange Act periodic reports relating to the 2002 Sarbanes –Oxley Act . Since the Sarbanes-Oxley Act was passed in July 2002, the SEC has responded with a number of new rules.

The Sarbanes-Oxley Act affects all UK companies that are subsidiaries to US companies .

Here are the new SEC Rules and a comparison with the situation as per the UK's Companies Act 1985.

US SEC	UK (mainly) Companies Act 1985
<p>1. Loans to Directors and Officers prohibited</p> <p>Section 402 SOX prohibited loans by any issuer, US and non-US, to its officers and directors.</p>	<p>1. Restriction on company's powers to make loans, etc, to directors and persons connected with them</p> <p>CA 85, sections 330 to 344 (part of Part X)</p>
<p>2. Forfeiture of certain bonuses and profits.</p> <p>Section 304 SOX. provides for the forfeiture of certain bonuses and profits received by the CEO and/or CFO in certain circumstances if a company is required to restate its financial statements.</p>	<p>2. Enforcement of Fair Dealings by Directors</p> <p>CA 85, Part X (sections 311 to 347)</p>
<p>3. Prohibition of Insider Trades during Pension Fund Blackout Periods</p> <p>Section 306 SOX.</p>	<p>3. As 2 above.</p> <p>Also prohibitions of "self-investment" in excess of 5% by pension funds (Pensions Schemes Act 1995 s40)</p>

<p>4. Changes to beneficial Ownership Reporting.</p> <p>Section 403 SOX. provides for shorter filing deadlines and electronic filing for beneficial ownership reports.</p>	<p>4. Disclosure of Interests in Shares CA 85, Part VI (sections 198 to 220)</p>
<p>5. Certification of Annual Reports.</p> <p>Section 906 SOX. requires certification of companies quarterly and annual reports.</p>	<p>5. (a) Accounts and Audit and (b) Annual Return (a) CA 85, Part VIII (sections 221 to 262A) (b) CA 85, Part XI, Chapter III (sections 363 to 365)</p>
<p>6. Disclosure of a Company's Code of Ethics. and audit committee financial expert disclosures effective since July 2003.</p> <p>Sections 406 and 407 SOX.</p>	<p>6. The Combined Code Principles of Good Governance and Code for Best Practice</p> <p>Derived by the Committee on Corporate Governance from the Committee's Final Report and form the Cadbury and Greenbury Reports</p>
<p>7. Retention of records relevant to audits and reviews by a company's auditors.</p> <p>Section 802 SOX.</p>	<p>7. Accounting records CA 1985 sections 221 and 222 (part of Part VII Chapter I)</p>
<p>8. Certification of reports , codes of ethics and audit committee financial expert disclosures.</p> <p>Sections 302,406,407 .SOX.</p>	<p>8. See 6 above.</p>
<p>9. Management's discussion and analysis disclosure of off-balance sheet arrangements and aggregate contractual arrangements.</p> <p>Section 401(a) SOX.</p>	<p>9. None but see 5 above.</p>
<p>10. Auditor Independence.</p> <p>Section 208(a) SOX.</p>	<p>10. Auditors CA 85, Part XI, Chapter V Auditors (sections 384 to 394A)</p>

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