



AMERICAN ACADEMY *of* ACTUARIES

July 19, 2002

The Honorable Michael G. Oxley
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Oxley:

On behalf of the American Academy of Actuaries (the Academy), I appreciate the opportunity to comment on H.R. 3763, the Public Company Accounting Reform and Investor Protection Act of 2002. The Academy is the non-partisan public policy and professionalism organization representing actuaries in all areas of practice in the United States.

The Academy's members are bound by professional standards that emphasize the importance of integrity in financial services and the value of independent peer review. Accordingly, we share the Congress' goal of strengthening corporate accountability so that investors receive reliable financial information on a timely basis.

We observe, however, that the provisions in H.R. 3763 governing "actuarial services" and "appraisal or valuation and fairness opinions," both of which would apply to our members practicing in the financial reporting area, do not define either term. The Securities and Exchange Commission (SEC) has adopted regulations defining both terms. These provisions were reaffirmed in an SEC rule adopted last year after extensive public comment. Without taking any position on the overall effectiveness of the SEC's regulations, we believe that those definitions have functioned effectively to support the independence of actuaries providing such non-audit services.

We therefore urge the Congress, in drafting the conference report for H.R. 3763, to clarify in report language its intent that "actuarial services" and "appraisal or valuation and fairness opinions" be defined in a manner that is consistent with the attached definitions.

Thank you for your consideration of our views. Please contact me or Todd Tuten, Director of Public Policy, at (202) 223-8196, if we may be of further assistance to you.

Sincerely,

Daniel J. McCarthy
President
American Academy of Actuaries

17 C.F.R. §§ 210.2-01(c) (4) (iii) – (iv)
Excerpted from Revision of the Commission’s Auditor Independence Requirements
Securities and Exchange Commission
Adopted effective February 5, 2001

- (iii) Appraisal or valuation services or fairness opinions.
 - (A) Any appraisal service, valuation service, or any service involving a fairness opinion for an audit client, where it is reasonably likely that the results of these services, individually or in the aggregate, would be material to the financial statements, or where the results of these services will be audited by the accountant during an audit of the audit client's financial statements.
 - (B) Notwithstanding paragraph (c)(4)(iii)(A) of this section, the accountant's independence will not be impaired when:
 - (1) The accounting firm's valuation expert reviews the work of the audit client or a specialist employed by the audit client, and the audit client or the specialist provides the primary support for the balances recorded in the client's financial statements;
 - (2) The accounting firm's actuaries value an audit client's pension, other post-employment benefit, or similar liabilities, provided that the audit client has determined and taken responsibility for all significant assumptions and data;
 - (3) The valuation is performed in the context of the planning and implementation of a tax-planning strategy or for tax compliance services; or
 - (4) The valuation is for non-financial purposes where the results of the valuation do not affect the financial statements.
- (iv) Actuarial services.
 - (A) Any actuarially-oriented advisory service involving the determination of insurance company policy reserves and related accounts for the audit client, unless:
 - (1) The audit client uses its own actuaries or third-party actuaries to provide management with the primary actuarial capabilities;
 - (2) Management accepts responsibility for any significant actuarial methods and assumptions; and
 - (3) The accountant's involvement is not continuous.
 - (B) Subject to complying with paragraph (c)(4)(iv)(A)(1) - (3) of this section, the accountant's independence will not be impaired if the accountant:
 - (1) Assists management to develop appropriate methods, assumptions, and amounts for policy and loss reserves and other actuarial items presented in financial reports based on the audit client's historical experience, current practice, and future plans;
 - (2) Assists management in the conversion of financial statements from a statutory basis to one conforming with generally accepted accounting principles;
 - (3) Analyzes actuarial considerations and alternatives in federal income tax planning; or
 - (4) Assists management in the financial analysis of various matters, such as proposed new policies, new markets, business acquisitions, and reinsurance needs.