

The Implications of the Sarbanes-Oxley Act of 2002 Twenty Years Later

A THESIS

Presented to the

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Baton Rouge, Louisiana

In Partial Fulfillment Requirements for the

Honors College Degree

By

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ABSTRACT

Define the process and experimental design of thesis

As a scholarly thesis written by a Business Management Major with a concentration in Human Resource Management, this article shall outline one, the ethical and legal implications of Sarbane-Oxley Act of 2002 and two, its implications on business ethics. It is paramount that the foundation of this act is discussed in order to holistically comprehend the entirety of its impact on accounting practices today.

Null Hypothesis

Within business, there are laws, guidelines and rules that govern the quality of business ethics and investor trust. Businesses are expected to consistently maintain the mandates set out before them. Mandates like the Sarbanes-Oxley Act and Discrimination Acts, highlight certain areas in business that require extra attention due to unethical and now unlawful behavior.

Alternative Hypothesis

It is my belief that in today's day and age, that the Sarbanes-Oxley Act has only partially successfully accomplished what it was set out to do in regaining the trust of consumers in the realm of investment in business. More and more, even with the 2002 Act, as a society we are moving away from credibility in business.

Expected Conclusion

I expect for the overall impact of the SOA to be positive due to the stricter guidelines that the act put forth. In other words, the outcome of this study is projected to prove that businesses are incentivised to act more ethically in their accounting practices and corporate responsibilities.

ACKNOWLEDGEMENTS

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Thank you, first and foremost to my thesis Advisor, Dr. Albert D. Clark. He has been a constant help in the choosing, research and completion of this Thesis.

Thank you to the College of Business for adequately preparing me to get to this point of degree completion.

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CHAPTER 1

BACKGROUND KNOWLEDGE OF THE STUDY

Introduction

Background

In the 1960s, the emergence of environmental issues, civil rights issues, and rising drugs came onto the scene of the corporate world. Consumers' Bill of Rights arose during this time frame. Then in the 1970s human rights issues became a primary focus in business. Social Responsibility became a hot topic in the 70s. Later, in the 1980s, a lack of transparency in business alongside influence peddling became a prevalent issue. In the 80's, the Defense Industry Initiative on Business Ethics and Conduct (DII) emerged. After, in the 1990s the ethical questions of sweatshops and issues of unsafe working conditions became prevalent. Here, the Federal Sentencing Guidelines for Organizations (FSGO) became a thing. Now, in the 2000s-2020s, businesses are experiencing cybercrimes, financial misconduct and globalization of issues in business, and intellectual property theft. Therefore, in the 2000s the Sarbanes-Oxley Act popped up in response to unethical methods of business.

The purpose of this study is to explain the effect that the Sarbanes-Oxley Act of 2002 and its subsequent practices has had on the ethical behavior in companies. Investing and accounting fraud alone is a mighty beast. Thus, this thesis will attempt to define and address the many components of the Sarbanes-Oxley act and all that it encompasses. It will target businesses in the United States at various levels for data. That of which does one of two things; exercise the freedom that the internal accounting and auditing departments possess or submit to the drastic parallel of the limitations that restrict the solely brick and mortar companies. Not only this, but the legal responses resulting from this modern methodology of business will also be addressed. A new world of crime and corruption has emerged with modern technology (which is only natural when business transactions are conducted online). Therefore, the uprise of guidelines, laws and regulations shall be highlighted as well.

Most importantly, as a thesis written by a Business Management Major, it shall outline one, the legal implications of the subject matter and two, the manors in which the modern and traditional systems for conducting ethical business are executed. It is paramount that the foundation of traditional accounting practices are discussed in order to holistically comprehend the entirety of what business is today.

Glossary

Accounting

The formal recording keeping of all money received and expensed is conducted by an accountant

Business

An organization that provides and purchases goods and services

Corporate Governance

How a company holds itself accountable in being transparent and just in all its endeavors. This responsibility is for the board of directors of an organization or corporation

Corporate Responsibility

Upper level management and governance of an organization

Ethical

In business, the term ethical relates to companies that conduct themselves in a way that does not cause damage socially and environmentally

FY = Fiscal Year

Criminal Punishment

The repercussion imposed on individuals who commit crimes

Investors

An individual who places their money into an organization for the purpose of gaining a profit

Confidence

The trust that an individual has in an organization's ethics and integrity

Regulation

Systematic rules used to modulate organizations

SEC or Securities and Exchange Commission

An official United States organization ruling over the protection of investors in the stock market

Unethical Behavior

In business, unethical behavior is when an organization causes harm socially or environmentally

White Collar Crime

Crimes committed by professionals in an office setting that relates to their business

America's Trust in Business

(these percentages represent the percent of which Americans have trust in different markets)

Pharmacies and Drug Stores: 59%

Grocery Stores and Supermarkets: 55%

Banks and Financial Institutions: 42%

Home Improvement: 41%

Department Stores: 31%

Electronics/Appliance Stores: 33%

Auto Dealers: 13%

Real Estate Brokers: 13%

Components of Business

At the center of business there is the company and on its immediate exterior is the primary stakeholders or:

- Employees

A person who is under the employment of another for financial compensation.

- Shareholders

Those who hold/own a share in an organization

- Suppliers

An entity that supplies businesses with products supporting a good or service

- Community

The entities physically and figuratively surrounding and impacting an organization

- Government

The local, state and federal entities that govern personal and business behavior

- Regulatory Agencies

Agencies that regulate the ethical and legal behavior of organizations

- Customers

A person who trades their resources for a service or good from a given company

On the outer level of business is the secondary level stakeholders and that includes:

- Special Interest Groups
- The Mass Media
- Competitors
- Trade Association

Summary

The Effect of the Sarbanes-Oxley Act on Investors Trust In Business as a thesis will as a whole dive into bookkeeping, current issues in business and ethical behavior in accounting practices. In the next chapter, the chosen documents will be discussed in further detail.

Defendants that Settled	Amount Settled
CIBC, Citigroup, JP Morgan	\$6.6 Billion
Lehman Brothers	\$222.5 Million
Enron Board of Directors	\$213Million
Arthur Andersen	\$72.5 Million
Bank of America	\$69 Million
Andersen Worldwide	\$40 Million
Kirkland & Ellis	\$13.5 Million
Goldman Sachs	\$11.5 Million

	\$7.242 Billion

Enron Corp.

Shareholder Class Action Settlements

Graph created by the Institution Shareholder Services

Rank	Name of Company/Corporation	Year Settled 20XX	Total Amount Paid Out
I	Enron Corp.	'10	\$7.242 Billion
II	WorldCom, Inc.	'12	\$6.194 Billion
III	Cendant Corp.	'00	\$3.319 Billion
IV	Tyco International, Ltd.	'07	\$3.2 Billion
V	Petroleo Brasileiro S.A. – Petrobras	'18	\$3 Billion
VI	AOL Time Warner, Inc.	'06	\$2.5 Billion
VII	Bank of America Corp.	'13	\$2.425 Billion
VIII	Household International, Inc.	'16	\$1.575 Billion
IX	Valeant Pharmaceuticals Int'l Inc.	'21	\$1.21 Billion
X	Nortel Networks Corp. (I)	'06	\$1.142 Billion

Shareholder Class Action Settlements

Graph created by the Institution Shareholder Services

Enron Scandal Summary

October 16, 2001 \$638 Million 3rd Quarter Loss	October 22, 2001 U.S SEC Inquiry	Sarbanes Oxley Act of 2002 passed on July 30th Resulting in the \$450 Million “Fair Fund” by the SEC	Class Action Settlement in 2010 \$7,242,000,000.00	20th Anniversary \$140 Billion settled in investor related cases
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Recent Cases Fraudulent Financial and Accounting Practices in 2019

Highlighted Cases

In March, Steinhoff (a furniture and household goods company) was found to be conducting fraudulent accounting practice. This led to a \$7.4 Billion loss. “Operation Varsity Blues” as named by the federal government involved 50 parents being accused of college administration bribery for undergraduate students in March. April of 2019 is when the feds discovered a billion dollar medicare fraud scandal. In May, trade secret theft by the Chinese technology company led to them being charged with fraud. Then there was a capital one data breach where one hundred million plus applicants and accounts were compromised.

CHAPTER 2

LITERATURE REVIEW

Review

Congress.gov provides Sections 101 through 1107 of the SOX Act. Let us discuss Sections 101 and Sections 1106-7. Section 101 establishes the prohibition of more than two public accountants serving on the same Board. This was implemented to eliminate the implicit bias that stems from public accountants being overrepresented by being placed on the same Board. Sections 1106 and 1107 involve criminal penalties regarding act violation. Act violation is crucial in minimizing fraudulent behavior because it places a concrete consequence on unethical decision-making.

Moreover, Investopedia highlights how the SOX Act was passed in the United States Congress on the 30th of July. According to this source, its purpose was to enforce stricter security measures and penalties on criminals with unethical practices in business. This was accomplished in four ways. Those include corporate responsibility, increased criminal

punishment, accounting regulation and new protections. The major provisions of this act are Sections 302, 404 and 802. Section 302 in Title III (Corporate Responsibility) requires that the SEC enforce the Principal Executive Officer as well as the Principal Financial Officer to submit reports that are completely true, that there is a fair representation of financial statements of all related respects, and that Internal Control Officers responsible for disseminating consolidated subsidiary and issuer information. Section 404 in Title IV (Enhanced Financial Disclosures) requires that the SEC receive a yearly report regarding the internal controls of an organization. Section 802 in Title VIII (Corporate and Criminal Fraud Accountability) requires that the SEC draw attention to the necessity for businesses to retain documentation of everything related to the audits or the reviews.

Sarbanes Oxley Act has expressed that following the passage of the SOX Act, the decline in restatements became apparent in as early as 2005. Also, less securities class action lawsuits have been filed, by even 60% less than before. Internal audit quality or work has elevated but still has much room for improvement.

The Legal Information Institute (LII) asserts that the Sarbanes-Oxley Act has led to a higher rate of accuracy in financial statements. Currently the LII is responsible for the publishing of every state's regulations in the United States. They have provided the public with an open access

Sarbanes Oxley Act of 2002: Title I-XI

Title I: Public Company Accounting Oversight Board (PCAOB)

Title II: Auditor Independence

Title III: Corporate Responsibility

Title IV: Enhanced Financial Disclosures

Title V: Analyst Conflicts of Interest

Title VI: Commission Resources and Authority

Title VII: Studies and Reports

Title VIII: Corporate and Criminal Fraud Accountability

Title IX: White-Collar Crime Penalty Enhancements

Title X: Corporate Tax Returns

Title XI: Corporate Fraud Accountability

Enron

In 2001, the US energy, commodities and service company, Enron Corporation was involved in one of the most controversial accounting and business ethics violation scandals and business of the decade. The company based out of Houston eventually found to be abusing accounting loopholes in order to mask billions of dollars worth of bad debt as well as drastically inflating the company's earnings. As a result, shareholders were down \$74 billion when Enron's share price lowered from about ninety dollars to less than just one dollar in the short span of a year. Billions of dollars were being kept off of the books by Jeff Skilling (CEO) and Ken Lay (former CEO). Needless to say, Enron went bankrupt.

Notable Mention

Bernard L. Madoff

Infamous for quite possibly the largest ponzi schemes and accounting scandals in American History, is Bernard "Bernie" Madoff. After the financial crisis in 2008, Mr. Madoff was the brain power behind an effort to effectively trick investors out of \$64.8 billion. His

“business” operated under the title *Bernard L. Madoff Investment Securities LLC*. Subsequently, Madoff was sentenced to 150 years in prison while also being ordered to pay \$170 billion in damages. Others that were involved in this ponzi scheme were Madoff’s accountant, David Friehling as well as his second-in-command, Frank DiPascalli.

Summary

Titles 1 through XI should provide investors with some sense of security, right? Issues surrounding Public Company Accounting Oversight to Corporate Fraud Accountability are covered. With that being said, companies are incentivised to abide by the SOX and prohibited from white-collar crime which has been made out to be increasingly criminalized and penalized.

Many aspects of accounting practices, regulations and scandals have taken place over the last few decades. When the Act itself is dissected, it would appear that investors should have no problem with trusting companies with their finances, however that’s far from the truth. A mere six years after the Sarbanes-Oxley Act was passed investors were scammed out of \$60+ billion by one company alone. Prior to that in 2001. Enron’s accounting practices (under the Clinton administration), which might very well have sparked the process of the SOX Act, came out to have taken part in cheating even more billions worth of dollars from investors. Even as recently

as last year Enron experienced further scrutiny regarding unethical behavior in their corporate governance practices under the Biden administration.

What does this mean? Are there any sure fire ways to know if an investor's investment is being invested into a company with integrity in their auditing and accounting practices? Is the risk worth the benefit? Will businesses as a whole finally decide to prioritize ethics over profit? Those are all questions that are still up for debate. The majority of businesses will never have reason to believe in the importance of following business ethics until stricter attention is being paid to their financial and accounting practices.

According to the University of Nevada in Reno, some of the most common sources of accounting fraud are seen in Tips at 45%, Internal Auditing at 15%, Management Review at 12%, Account Reconciliation at 4%, External Audit at 4%, Document Examination at 3% and IT Controls at 2%. Clearly Accounting Fraud is still a prevalent issue. This is the reality of business still about 20 years after the implementation of the SOX of 2002. Note how Internal Auditing is only 15% of accounting fraud represented in this study. Seemingly low but 15% of billions of dollars is still in the millions.

Limitations

The limitations of this study is that an independent survey nor testing of consumer trust and business ethics was not conducted. The study relies solely on preexisting data and research.

Another limitation of this study is that many cases are referenced regarding the Sarbanes Oxley Act but are not easily accessible to the public.

Recommendations?

The first recommendation to make the SOX act more effective is to lessen the barriers of entry for small businesses and their abilities to exercise the benefits of the IPOs. Secondly, to improve the SOX Act there should be an amendment made to increase the inspection frequency in order to discourage the likelihood and ability of companies to falsify documentation. Lastly, the SOX Act would be better if it included harsher criminal punishments. With over \$140 billion being paid out to Shareholders being paid out within the last twenty years. In light of that, it is apparent that the current penalties and punishments are not effective enough.

CHAPTER 3

METHODOLOGY

*This is a thesis supported by existing data.

1. Identify Business Components

In order to allow the audience, who might not specialize in business and be familiar with the terminology used in this discussion, I thought it crucial that I outline the vernacular related to accounting, finance and business. This includes a glossary and statistics.

2. Outline the Sarbanes Oxley Act and Some of important Sections

The thesis aims to evaluate the effects of the SOX Act of 2002. To properly do so, I researched through many databases to expound upon the Titles and vital sections to the impact on investor trust, business ethics and integrity in business.

3. Highlight important cases related to the accounting fraud

To do so, I chose a few cases to focus on. The most important case I chose to hone in on was the Enron debacle. It surfaced in 2001 and is still facing accusations of being unethical. To highlight this the case was broken down and explained.

4. Address the Effects of the SOX Act 20 years later

The effects of the SOX Act are numerous speckled around the internet databases and scholarly journals. To address its effects, I review the existing cases, data and journals to come to my own conclusion.

CHAPTER 4

CONCLUSION

The overall impact of the SOX Act did not affirm my hypothesis. There were a multitude of negative effects, including the laying off of innocent employees and the continuation of unethical practices in business. The only positives out of the act is that it does penalize corporate fraud and it has potential to improve investor confidence.

SWOT Analysis

Strengths

White Collar Crime has been seriously penalized and discouraged due to the SOX Act. Cases like Enron and Cendant Corporation influenced the subsequent passage of the SOX Act which ignited the movement of Social Responsibility.

Weaknesses

Corporations are still practicing unethically. This weakness can be the result of two things; ignorance or malice.

For companies who are ignorant of the corporate fraud taking place, there should be an added clause that states all companies should be required to understand and acknowledge their understanding of the act and its regulations.

For companies continuing to practice unethically due to malice, punishments should be heightened and inspections should become more frequent.

Opportunities

The opportunities provided by the SOX Act of 2002 include the further increase in investor confidence, more ethical behavior in accounting practices, and more successful outcomes for the investors of business.

Threats

Americans pride themselves in their unalienable rights which are the rights to life, liberty and the pursuit of happiness. Some would try to argue that the SOX Act and the expansion of corporate governance is in opposition with the latter two of that statement. It can be viewed as an overregulation on the part of the federal government from the perspective of corporate professionals.

Annotated Bibliography

Hugh Taylor. The Joy of SOX : Why Sarbanes-Oxley and Services Oriented Architecture May Be the Best Thing That Ever Happened to You. Wiley, 2006. EBSCOhost, search-ebSCOhost-com.subr.idm.oclc.org/login.aspx?direct=true&db=nlebk&AN=151865&site=ehost-live.

- By Hugh Taylor, this article shows reasons that may lead the reader to believe that the Sarbanes-Oxley Act might frankly be one of the best things that has ever happened to you. Alongside many other things the article talks about the challenges versus the opportunities of the (SOX).

H.R.3763 - 107th Congress (2001-2002): Sarbanes-Oxley Act ... <https://www.congress.gov/bill/107th-congress/house-bill/3763>.

- This article depicts the in depth titles and subsequent sections that lie within the Sarbanes-Oxley Act of 2002(SOX). It provides context and background on the SOX. Further, this citation includes the actions, amendments, cosponsors, committees and related bills as well.

Kenton, Will. "Sarbanes-Oxley (Sox) Act of 2002 Definition." Investopedia, Investopedia, 19 May 2021, <https://www.investopedia.com/terms/s/sarbanesoxleyact.asp>.

- On this link, Will Kenton defines the Sarbanes-Oxley Act of 2002(SOX). This brief article also lays out the four principle areas that comprise that Securities and Exchange Commission or SEC. Then it dives into the major provisions of the Sarbanes Oxley Act.

Michael F. Holt. *The Sarbanes-Oxley Act : Costs, Benefits and Business Impacts*. Butterworth-Heinemann, 2008. EBSCOhost, search-ebSCOhost-com.subr.idm.oclc.org/login.aspx?direct=true&db=nlebk&AN=212318&site=ehost-live.

- As the title suggests, this ebook written by Butterworth-Heinemann weighs out all the pros and cons, costs and benefits and the impacts on business the the Sarbanes-Oxley Act has had on business. It was written for senior managers.

Peggy M. Jackson, and Toni E. Fogarty. *Sarbanes-Oxley for Nonprofits : A Guide to Building Competitive Advantage*. Wiley, 2005. EBSCOhost, search-ebSCOhost-com.subr.idm.oclc.org/login.aspx?direct=true&db=nlebk&AN=130975&site=ehost-live.

- This ebook by Hoboken, N.J. is to map out a guide on how to leverage the glory and power that stems from the Sarbanes-Oxley Act. It has special interest in nonprofit organizations. The SOX is essential for these kinds of organizations according to Hoboken.

Paul G. Mahoney. *Wasting a Crisis : Why Securities Regulation Fails*. University of Chicago Press, 2015. EBSCOhost, search-ebSCOhost-com.subr.idm.oclc.org/login.aspx?direct=true&db=nlebk&AN=961056&site=ehost-live.

- This article talks about the holes within some crisis management processes. It discusses the Dodd-Frank Act of 2010. It goes into detail about the New Deal. Lastly it provides an overview for the Sarbanes-Oxley Act.

Sanjay Anand. *Essentials of Sarbanes-Oxley*. Wiley, 2007. EBSCOhost, search-ebSCOhost-com.subr.idm.oclc.org/login.aspx?direct=true&db=nlebk&AN=199985&site=ehost-live.

- This ebook defines the essentials of the Sarbanes-Oxley Act of 2002 by drawing attention to the Sections 302 and 404. It is a great summarization of the act. It discusses governance, risk, and compliance.

“Sarbanes-Oxley Act.” Legal Information Institute, Legal Information Institute, https://www.law.cornell.edu/wex/sarbanes-oxley_act.

- This article shows the true intentions of Congress when developing and creating the Sarbanes-Oxley Act of 2002. It gives a little background on the SOx. This article details the provisions of SOx Not only this, but it also highlights the impact that it has had on firms.

Top accounting scandals. Corporate Finance Institute. (2020, June 12). Retrieved November 24, 2021, from <https://corporatefinanceinstitute.com/resources/knowledge/other/top-accounting-scandals/>.

- In this article, the top ten accounting scandals in public businesses are discussed

“The Sarbanes Oxley Act.” The Sarbanes Oxley Act, <https://sarbanes-oxley-act.com/>.

- Other than providing context for the purpose of the Sarbanes-Oxley Act of 2002, this article highlights the impact that it has on many sectors of the business realm. It discusses the impact that the SOX has had on investor confidence. Moreover, the SOX act is said to have established the PCAOB and thus eliminating solely self-regulating accounting practices. The act touched the issue of conflicts of interest when dealing with accounting. Among other things, it also put a stop to the backdating of stock options.

“THE SARBANES-OXLEY ACT 4 YEARS LATER: WHAT HAVE WE LEARNED.”

Www.govinfo.gov, <https://www.govinfo.gov/metadata/pkg/CHRG-107shrg88116/premis.xml>.

- Entitled, “The Sarbanes Act 4 Years Later: What Have We learned?” gives a detailed account on the creation of the Sarbanes-Oxley Act. It discusses the attempts that the SOX of 2002 had to try and repair investor confidence in the stock market by creating stricter guidelines and regulations on accounting firms.

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EDUCATION

Southern University and A&M College, Expected May 2022
Baton Rouge, LA

Bachelor of Science in Business Management; 3.868/4.0 GPA
Concentration in Human Resource Management

Relevant Coursework: Human Resource Management, Organizational Behavior, Business and Professional Ethics, Legal Environment of Business, Employment Law, Labor Management Relations, Business Communications and Professional Development, Production Management

SKILLS AND SOFTWARE PROFICIENCIES

Discipline and ability to multitask, Professional Speaking and Technical Writing, Detail Oriented, Conflict Resolution and Problem Solving, Project Management, Exceptional Customer Service, Excellent Organization and Time Management, Research and Data Analysis, Excel Spreadsheet

WORK & LEADERSHIP EXPERIENCE

Spring 2021-22 **Finance Service Business Office**
Baton Rouge, LA

Accounting Intern (12 hours/week; schedule varied depending on course schedule)

An accounting and finance internship along with customer service responsibilities

- Adjusting and re-averaging the rates for the 22+ cycles of the Baton Rouge and East Baton Rouge Parish Customers for the Annual Sewer Re-averaging in July.
- Efficiently Imaging and scanning confidential documents, updating customer records, inputting account data into excel spreadsheets. Effectively answering office calls that result in finding meaningful payment solutions for customers

Fall 2020-Summer 2021 **Texas Roadhouse**
Baton Rouge, LA

Server (20 hours/week; give or take)

A customer service job working with customers, business transactions, and waiting tables

- Provided cheerful and inspiring service while delivering customers the desired food and service that they requested.
- Averaged about \$900 dollars in sales per shift by advertising up charges.

Fall 2019-now
Baton Rouge, LA

Volunteers in Public Schools

Volunteer (1 hour/week; give or take)

A volunteer position spent assisting elementary students with their reading development and comprehension skills as well as helping in the continuing efforts of different programmatic needs

- Designed lesson plans and crafted creative ways for two incredible students to get excited about learning and improve their reading skills and confidence in class.
- Participated in 2 days of service projects by packing lunches and snacks for high school students at Liberty High School.

Summer 2019

Southern University and A&M College

Baton Rouge, LA

Work Study Volunteer (10 hours/week; give or take)

A volunteer position with the College of Business, responsible for helping with program coordination, office needs, and general office & field projects

- Trained Baton Rouge Public School students on the use of entrepreneurship programs and developed business plans that increased marketability.
- Crafted ways to grasp the attention of students regarding their business projects by making it more relatable to teens and children.

ACTIVITIES & HONORS

- National Dean's List; 2018-21 Honors Student Association//Recording Secretary 2019-20 Pre-Law Society Treasurer 2021-22 Delta Sigma Theta Sorority, Incorporated//Internal Audit Chair 2021-22• Beta Gamma Sigma Business Honor Society Top Jags Dolores Margaret Richard Spikes Honors College Scholarship Recipient