95th Congress 1st Session	} SENATE {	Report No. 95-114

FOREIGN CORRUPT PRACTICES AND

DOMESTIC AND FOREIGN INVESTMENT IMPROVED DISCLOSURE ACTS OF 1977

REPORT

of the

COMMITTEE ON BANKING, HOUSING,

AND URBAN AFFAIRS

UNITED STATES SENATE

to accompany

S. 305

together with

ADDITIONAL VIEWS

May 2 (legislative day, March 28), 1977. - Ordered to be printed

The Committee on Banking, Housing and Urban Affairs favorably reports a bill (S. 305) to amend the Securities Exchange Act of 1934 to require companies subject to the jurisdiction of the Securities and Exchange Commission to maintain accurate records, to prohibit certain bribes, to expand and improve disclosure of ownership of the securities of U.S. companies, and for other purposes, and recommends that the bill, as amended by the committee, do pass.

History of the Bill

During the 94th Congress, the Committee on Banking, Housing and Urban Affairs held extensive hearings on the matter of improper payments to foreign government officials by American corporations. The committee also considered several bills designed to deal with the problem in various ways including S. 3133 introduced by Senator Proxmire on March 11, 1976; S. 3379 introduced by Senators Church, Clark and Pearson on May 5, 1976, and S. 3418 introduced by Senator Proxmire at the request of the Securities and Exchange Commission (SEC) on May 12, 1976.

On May 12, 1976, the committee received from the SEC an extensive "Report on Questionable and Illegal Corporate Payments and Practices," ("SEC report") which summarized the SEC's enforcement activities and findings to that date. That report traced the history of the Commission's discovery of conduct involving the misuse of corporate funds and the commencement of investigations which subsequently revealed that instances of undisclosed questionable or illegal [*page 2*] corporate payments were indeed widespread and represented a serious breach in the operation of the Commission's system of corporate disclosure and, correspondingly, in public confidence in the integrity of the system of capital formation. The SEC report also analyzed the public filings of 89 corporations that had disclosed varying types of questionable payments, plus six special reports obtained as the result of SEC enforcement actions and the allegations made in eight additional cases in which the SEC had obtained some form of judicial relief. Finally, the report contained the SEC's analysis of the degree of disclosure required concerning questionable foreign payments under the existing Federal securities laws and outlined the legislative and other responses which the Commission recommended to remedy these problems.

On June 22, 1976, the committee met and ordered reported a bill, S. 3664, which incorporated the SEC's recommendations and a direct prohibition against the payment of overseas bribes by any U.S. business concern. (1) On September 15, 1976, the Senate, by a unanimous vote of 86-0 passed S. 3664. The House of Representatives, however, did not complete work on that legislation before its adjournment on October 2, 1976.

Title II of S. 305, which would amend the Federal securities laws to enhance the present system of disclosure of the ownership of American business, has also been the subject of numerous hearings and careful deliberation by the committee in the past. Last year, as part of S. 3084, the committee reported favorably (2) and the Senate passed the disclosure provisions as title III of S. 3084. No final action was taken by the Congress on this bill prior to adjournment either.

Shortly after the 95th Congress convened on January 18, 1977, Senators Proxmire and Williams introduced S. 305. As introduced, title I of the bill was identical to S. 3664, the measure which the Senate had passed unanimously during the prior Congress and title II was substantially the same as Title II of S. 3084.

The committee held hearing on S. 305 on March 16, 1977, and received testimony from Senator Metcalf, the Securities and Exchange Commission, the Department of the Treasury, the American Bankers Association, and the Securities Industry Association. Subsequently, on April 7, 1977, the committee met in open session to consider S. 305. The committee ordered the bill, with an amendment, to be reported to the Senate.

Summary of the Bill

a. title i - corporate bribery of foreign officials

Title I of S. 305 is designed to prevent the use of corporate funds for corrupt purposes. As reported, Title I:

- Requires companies subject to the jurisdiction of the SEC to maintain strict accounting standards and management control over their assets;
- Prohibits the falsification of accounting records and the deceit of accountants auditing, the books and records of such companies; and [*page 3*]
- Makes it a crime for U.S. companies to bribe a foreign government official for the specified corrupt purposes. Companies violating the criminal prohibitions face maximum fines of $500,000. Individuals acting on behalf of such companies face a maximum fine of $10,000 and 5 years in jail.

In the past, corporate bribery has been concealed by the falsification of corporate books and records. Title I removes this avenue of coverup, reinforcing the criminal sanctions which are intended to serve as the significant deterrent to corporate bribery. Taken together, the accounting requirements and criminal prohibitions of Title I should effectively deter corporate bribery of foreign government officials.

b. title ii - improved disclosure of corporate ownership

[*OMITTED*]

Need for Legislation

a. title i - corporate bribery of foreign officials

Recent investigations by the SEC have revealed corrupt foreign payments by over 300 U.S. companies involving hundreds of millions of dollars. These revelations have had severe adverse effects. Foreign governments friendly to the United States in Japan, Italy, and the Netherlands have come under intense pressure from their own people. The image of American democracy abroad has been tarnished. Confidence in the financial integrity of our corporations has been impaired. The efficient functioning of our capital markets as been hampered.

[*page 4*] Corporate bribery is bad business. In our free market system it is basic that the sale of products should take place on the basis of price, quality, and service. Corporate bribery is fundamentally destructive of this basic tenet. Corporate bribery of foreign officials takes place primarily to assist corporations in gaining business. Thus foreign corporate bribery affects the very stability of overseas business. Foreign corporate bribes also affect our domestic competitive climate when domestic firms engage in such practices as a substitute for healthy competition for foreign business.

Managements which resort to corporate bribery and the falsification of records to enhance their business reveal a lack of confidence about themselves. Secretary of the Treasury Blumenthal, in appearing before the committee in support of the criminalization of foreign corporate bribery testified that: "Paying bribes - apart from being morally repugnant and illegal in most countries - is simply not necessary for the successful conduct of business here or overseas."

The committee concurs in Secretary Blumenthal's judgment. Many U.S. firms have taken a strong stand against paying foreign bribes and are still able to compete in international trade. Unfortunately, the reputation and image of all U.S. businessmen has been tarnished by the activities of a sizable number, but by no means a majority of American firms. A strong antibribery law is urgently needed to bring these corrupt practices to a halt and to restore public confidence in the integrity of the American business system.

b. title ii - disclosure of corporate ownership

[*OMITTED*]

[*page 7*]

Nature of Legislation

a. title i - corporate bribery of foreign officials

1. Accurate accounting

The committee recognizes that the SEC has broad authority to promulgate accounting standards for companies subject to jurisdiction under its existing authority. Nevertheless, the committee believes the Commission's current program for accurate accounting should be supplemented by an explicit statement of statutory policy. The accounting standards in S. 305 are intended to operate in tandem with the criminalization provisions of the bill to deter corporate bribery. S. 305 expresses a public policy which encompasses a unified approach

to the matter of corporate bribery.

This legislation imposes affirmative requirements on issuers to maintain books and records which accurately and fairly reflect the transactions of the corporation and to design an adequate system of internal controls to assure, among other things, that the assets of the issuer are used for proper corporate purpose. The committee believes that the imposition of these affirmative duties under our securities laws coupled with attendant civil liability and criminal penalties for failure to comply with the statutory standard will go a long way to prevent the use of corporate assets for corrupt purposes. Public confidence in securities markets will be enhanced by assurance that corporate recordkeeping is honest.

Section 102 of the bill as reported amends section 13(b) of the Securities Exchange Act by adding new paragraphs (b)(2), (b)(3), (b)(4), and (b)(5). The provisions of section 102 apply to issuers which have securities listed on an exchange pursuant to subsection 12(b) of the Securities Exchange Act, to issuers which meet the requirements of section 12(g) of that Act, and to issuers subject to the reporting requirement of section 15(d) of the Act.

The purpose of section 102 is to strengthen the accuracy of the corporate books and records and the reliability of the audit process which constitute the foundations of our system of corporate disclosure. Section 102 substantially embodies the measures which the SEC recommended to the committee in its May 22, 1976, report on questionable payments. New subparagraph (b)(2)(A) imposes an obligation on issuers to maintain books and records that accurately and fairly reflect transactions and dispositions of the assets of the issuers. (3)

Subparagraph (b)(2)(B) would require issuers to devise and maintain an adequate system of internal accounting controls sufficient to [*page 8*] provide reasonable assurances that, among other things, transactions are recorded as necessary to permit the preparation of financial statements in conformity with generally accepted accounting principles or any other applicable criteria. Because the accounting profession has defined the objectives of a system of accounting control, the definition of the objectives contained in this subparagraph is taken from the authoritative accounting literature. *See* American Institute of Certified Public Accountants, Statement on Auditing Standards No. 1, 320.28 (1973).

The establishment and maintenance of a system of internal controls is an important management/obligation [*sic*]. A fundamental aspect of management's stewardship responsibility is to provide shareholders with reasonable assurances that the business is adequately controlled. Additionally, management has a responsibility to furnish shareholders and potential investors with reliable financial information on a timely basis. An adequate system of internal accounting controls is necessary to management's discharge of these obligations.

The committee understands that auditors customarily provide management with comments on the state of the client's internal controls. Those comments are designed to assist the issuer in improving its system of internal controls and thereby to assist the auditor in the conduct of its audit. The committee recognizes that no system of internal controls is perfect, and that there will always be room for improvement. Auditor's comments and suggestions to management on possible improvements are to be encouraged.

The establishment and maintenance of a system of internal control and accurate books and records are fundamental responsibilities of management. The expected benefits to be derived from the conscientious discharge of these responsibilities are of basic importance to investors and the maintenance of the integrity of our capital market system. The committee recognizes, however, that management must exercise judgment in determining the steps to be taken, and the cost incurred, in giving assurance that the objectives expressed will be achieved. Here, standards of reasonableness must apply. In this regard, the term "accurately" does not mean exact precision as measured by some abstract principle. Rather it means that an issuer's records should reflect transactions in conformity with generally accepted accounting principles or other applicable criteria. While management should observe every reasonable prudence in satisfying the objectives called for in new paragraph (2) of section 13(b), the committee recognizes that management must necessarily estimate and evaluate the cost/benefit relationships of the steps to be taken in fulfillment of its responsibilities under this paragraph. The accounting profession will be expected to use their professional judgment in evaluating the systems maintained by issuers. The size of the business, diversity of operations, degree of centralization of financial and operating management, amount of contact by top management with day-to-day operations, and numerous other circumstances are factors which management must consider in establishing and maintaining an internal accounting controls system.

- *Prohibition against falsification of accounting records and deception of auditors*

Paragraph (b)(3) would make it unlawful for any person, directly or indirectly, knowingly to falsify any book, record or account main[*page 9*]tained, or required to be maintained, for an accounting purpose of an issuer subject to paragraph (b)(2) of section 13 of the Securities Exchange Act of 1934. This paragraph covers both actions of commission and omission.

Paragraph (b)(4) would prohibit knowingly making false or misleading statements, or knowingly omitting to state facts necessary to be stated, to an accountant in connection with an audit or examination of issuers identified in paragraph (b)(2) of section 13 of the Securities Exchange Act. This paragraph would also apply to audits in connection with a securities offering registered or to be registered under the Securities Act of 1933. Concepts of aiding and abetting are applicable to conduct covered by these sections. By specifically prohibiting the making of knowingly materially false or misleading statements or omissions to auditors, the bill is designed to encourage careful communications between the auditors and persons from whom the auditors seek information in the audit process. The committee is of the view that a proscription on knowing false statements to auditors will enhance the integrity of the auditing process.

The amendments to section 13(b) prohibiting the falsification of corporate books and records and the making of misleading representations to auditors are not intended to make unlawful conduct which is merely negligent. To clarify the purpose of these paragraphs, therefore, the committee inserted the term "knowingly" in appropriate places in both paragraphs (3) and (4). As explained to the committee, the term "knowingly" connotes a "conscious undertaking" Thus these paragraphs proscribe and make unlawful conduct which is rooted in a conscious undertaking to falsify records or mislead auditors through a statement or conscious omission of material facts.

The committee believes that the inclusion of the "knowingly" standard is appropriate because of the danger, inherent in matters relating to financial recordkeeping, that inadvertent misstatements or minor discrepancies arising from an unwitting error in judgment might be deemed actionable. The committee does not, however, intend that the use of the terming [*sic*] "knowingly" will provide a defense for those who shield themselves from the facts. The knowledge required is that the defendant be aware that he is committing the act which is false not that he know that his conduct is illegal. The inclusion of this standard is intended to be limited to matters arising under these new subsections and not to any other provisions of the securities laws. As a result, in this limited instance, in order to prove that falsification of corporate accounting records or deception of auditors is "knowingly" committed, the Commission will be required to establish this element in actions arising under new paragraphs 13(b)(3) and 13(b)(4).

The knowledge required is that the person be aware that he is or may be making a false statement or causing corporate records to be falsified through a conscious undertaking or due to his conscious disregard for the truth.

The bill, as reported, would also permit the head of any agency or department responsible for national security matters to exempt, on a limited basis, an issuer involved in an endeavor related to national security from the accounting and reporting requirements of the bill. The facts and circumstances to which the directive applies must be reported to the President. [*page 10*]

3. Criminalization of foreign bribery

The committee recognizes that the SEC has diligently sought to enforce the existing provisions of the Federal securities laws by requiring corporate reports to disclose "material" payments. Nevertheless, the committee has concluded that - "The serious abuses which the Commission has uncovered justify an explicit congressional affirmation of our national commitment of ending corrupt foreign payments. While the Commission has made substantial progress in its enforcement program, the committee believes that legislation is appropriate to make clear that cessation of these abuses is a matter, not merely of SEC concern, but of national policy."

Secretary of the Treasury Blumenthal supported the criminalization of overseas bribery in testimony before the committee. The committee considered the matter extensively in the 94th Congress and concluded that the criminalization approach was preferred over a disclosure approach. Direct criminalization entails no reporting burden on corporations and less of an enforcement burden on the Government. The criminalization of foreign corporate bribery will to a significant extent act as a self- enforcing, preventative mechanism.

Sections 103 and 104 of the bill provide criminal penalties for foreign corrupt bribery. Section 103 applies to issuers and reporting firms under the jurisdiction of the SEC. Section 104 applies to all other domestic concerns. Under sections 103 and 104, a corporation is prohibited from making payments to a foreign official for the purpose of inducing him to obtain or retain business for the corporation or to influence legislation or regulations of the Government.

Payments to officials of a foreign political office [*sic*] having the purposes set forth respecting payments to foreign government officials are likewise proscribed. And payments to agents, while knowing or having reason to know, that all or a portion of the payment will be offered or given to a foreign government official, foreign political party or candidate for foreign political office for the proscribed purposes are also forbidden.

The statute covers payments made to foreign officials for the purposes of obtaining business or influencing legislation or regulations. The statue does not, therefore, cover so-called "grease payments" such as payments for expediting shipments through customs or placing a transatlantic telephone call, securing required permits, or obtaining adequate police protection, transactions which may involve even the proper performance of duties.

The word "corruptly" is used in order to make clear that the offer, payment, promise, or gift, must be intended to induce the recipient to misuse his official position in order to wrongfully direct business to the payor or his client, or to obtain preferential legislation or a favorable regulation. The word "corruptly" connotes an evil motive or purpose, an intent to wrongfully influence the recipient. It does not require that the act be fully consummated, or succeed in producing the desired outcome.

Sections 103 and 104 cover payments and gifts intended to influence the recipient, regardless of who first suggested the payment or gift. The defense that the payment was demanded on the part of a government official as a price for gaining entry into a market or to obtain a contract would not suffice since at some point the U.S. company would make a conscious decision whether or not to pay a bribe. That [*page 11*] the payment may have been first proposed by the recipient rather than the U.S. company does not alter the corrupt purpose on the part of the person paying the bribe. On the other hand true extortion situations would not be covered by this provision since a payment to an official to keep an oil rig from being dynamited should not be held to be made with the requisite corrupt purposes.

Section 305 as reported also covers the officers, directors, employees, or stockholders making overseas bribes on behalf of the corporation. This provision is intended to make clear that it is corporate or business bribery which is being proscribed. Whether or not a particular situation involves bribery by the corporation or by an individual acting on his own will depend on all the facts and circumstances, including the position of the employee, the care with which the board of directors supervises management, the care with which management supervises employees in sensitive positions and its adherence to the strict accounting standards set forth under section 102. The prohibitions against corrupt payments apply in this regard to payments by agents where the corporation paying them knew or had reason to know they would be passed on in whole or in part to a foreign government official for a proscribed purpose. Of course, where the corporation knows the payment will be passed on for a proscribed purpose, the violation is complete.

The committee has recognized that the bill would not reach all corrupt overseas payments. For example, the bill would not cover payments by foreign nationals acting solely on behalf of foreign subsidiaries where there is no nexus with

U.S. interstate commerce or the use of U.S. mails and where the issuer, reporting company, or domestic concern had no knowledge of the payment. But a U.S. company which "looks the other way" in order to be able to raise the defense that they were ignorant of bribes made by a foreign subsidiary, could be in violation of section 102 requiring companies to devise and maintain adequate accounting controls. Under the accounting section no off-the-books accounting fund could be lawfully maintained, either by a U.S. parent or by a foreign subsidiary, and no improper payment could be lawfully disguised.

4. Enforcement responsibilities

After careful consideration the committee concluded that the SEC should continue to have a role in the investigation of violations of the criminal prohibitions as they apply to companies under the jurisdiction of the SEC. The SEC has been the principal agency of the Government taking the lead in the investigation of foreign bribery. This is as it should be for the bribery of foreign officials often violates our securities laws to the extent the payment is not disclosed to investors. The SEC has thus developed considerable expertise in investigation [*sic*] corrupt overseas payments. This same expertise can be put to work in investigating potential violations of the antibribery provisions of this legislation. If this investigative responsibility were to be assigned solely to the Justice Department, as some had advocated, that agency would have to duplicate the investigative capability already in the SEC at a greater cost to the Government.

It should be emphasized that while the SEC investigates potential violations of the securities laws, the only remedy it can bring on its own is an injunctive action. When the SEC believes it has compiled enough evidence for a criminal action, it refers the case to the Justice [*page 12*] Department for criminal prosecution. This same division of responsibility would also apply with respect to the antibribery provisions of this legislation.

The committee believes this division of responsibility will result in a stronger enforcement effort compared to an exclusive assignment to the Justice Department. It is often difficult to assemble the degree of evidence required in a criminal action, but enough evidence may exist to enable the SEC to halt a continuation of the corrupt practices through an injunctive action.

The committee expects that close cooperation will develop between the SEC and the Justice Department at the earliest stage of any investigation in order to insure that the evidence needed for a criminal prosecution does not become stale. The arrangements which the committee expects the SEC and Justice to work out on criminal matters is in no way intended to cast doubt upon the authority of the SEC to prosecute and defend its own civil litigation. Under the bill, the Justice Department retains sole investigative and prosecutional jurisdiction over domestic concerns covered but which are not otherwise within the jurisdiction of the SEC.

The committee believes that, by assigning to the SEC enforcement responsibilities for the new prohibition, it will strengthen the Commission's ability to enforce compliance with the existing requirements of the securities laws, and with the new accounting provisions recommended by the Commission and included as section 102 of the bill. Obviously, there may be practical impediments to enforcement in individual cases, just as proof of bribery and other white collar crimes is often difficult to obtain in domestic cases. Nonetheless, the Commission's enforcement efforts under existing U.S. law demonstrate that it is entirely feasible for U.S. agencies successfully to investigate improper foreign payments made on behalf of American corporations.

The SEC's responsibilities would extend to conducting investigations, bringing civil injunctive actions, commencing administrative proceedings if appropriate, (4) defending lawsuits against the Commission and its staff arising out of the Commission's obligations under this Act, and referring cases to the Justice Department for criminal prosecution on a timely basis. The Commission, of course, will retain all of its existing remedies under the securities laws, and the committee anticipates that the Commission will continue to tailor remedies to fit the circumstances of specific cases.

b. title ii - disclosure of corporate ownership

[*OMITTED*]

[*page 16*]

Section-by-section Analysis

The purpose of this legislation would be accomplished by amending existing sections 13(b), 13(d), 15(d), and 32(a) of the Securities Exchange Act of 1934 ("the act") and by adding new sections 13(g), 13(h), and new section 30A, to the act. Further, a new provision would be added to the criminal code.

a. title i - foreign corrupt practices

Short title

Section 101. This title may be cited as the "Foreign Corrupt Practices Act of 1977."

Integrity of accounting records and reports

Section 102 of the bill would amend section 13 of the Exchange Act by renumbering exiting subsection (b) as (b)(1) and by adding four new paragraphs. New paragraph 13(b)(2) would apply only to issuers which have a class of securities registered pursuant to section 12 of the act and issuers required to file reports pursuant to section 15(d) of the act ("reporting companies"). It would require reporting companies to make and keep books, records, and accounts which accurately and fairly reflect all of their transactions and dispositions of assets.

A reporting company also would be required to establish and maintain an adequate system of internal accounting controls sufficient to provide reasonable assurances that:

- Transactions are executed in accordance with management directions;
- Transactions are recorded in a manner that permits the company to prepare its financial statements in accordance with generally accepted accounting principles or other applicable criteria and to maintain accountability for its assets;
- Access to company assets is permitted only in accordance with management authorization; and
- The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to differences.

New paragraph (3) would make it unlawful for any person knowingly to make or cause to be made a materially false or misleading statement or to omit to state or cause another person to omit to state any material fact necessary in order to make statements to accountant not misleading. This paragraph would apply to statements made to an accountant in connection with any examination or audit of an issuer with securities registered under the Securities Act of 1933, as well as any examination or audit of a reporting company. [*page 17*]

New paragraph (5) would provide that no duty or liability could be imposed under new paragraphs (2), (3), or (4) upon any person acting pursuant to a written directive of the head of an agency responsible for national security. This exclusion only applies, however to the extent that the requirements of new paragraphs (2), (3), or (4) would be likely to result in the disclosure of properly classified national security information. Every directive executed by a national security agency head under this paragraph would have to describe specifically the facts which are not to be disclosed and the surrounding circumstances. These directives would expire annually unless renewed in writing. Agency heads would maintain a file of these directives, and each year on October 1 all directives in force during the prior year would have to be transmitted to the President for his review and certification that all conformed to law.

Prohibition against certain payments to officials by registered companies

Section 103 of the bill would add a new section 30A to the Act to prohibit any reporting company, or any officer, director, or employee, or shareholder acting on behalf of such a company, to use the mails or the means or instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, or promise to pay, or authorization of the payment of, any money, offer, gift, or promise to give anything of value, to three classes of persons:

- An official of a foreign government or instrumentality of a foreign government,
- A foreign political party or an official of a foreign political party, or a candidate for a foreign political office, or
- Any other person while the issuer knows or has reason to know that money or a gift will be offered, promised or given to an official of a foreign political party, or a candidate for a foreign political office.

The scope of section 30A is limited by the requirement that the offer, promise authorization, payment, or gift must have as a purpose inducing the recipient to use influence with the foreign government or instrumentality, or to refrain from performing any official responsibilities, so as to direct business to any person, maintain an established business opportunity with any person, divert any business opportunity from any person or influence the enactment or promulgation of legislation or regulations of that government or instrumentality.

Prohibition against certain payments to officials by other domestic concerns

Section 104 of the bill would prohibit persons included in the definition of the term "domestic concern" who would not be covered by new section 30A of the Act from engaging in any of the same types of conduct prohibited by that section.

The term "domestic concern" is defined in the bill to mean an individual who is a citizen or national of the United States as well as any corporation, partnership, association, joint-stock company, business trust, or unincorporated organization which is owned or controlled by individuals who are citizens or nationals of the United States and which has its principal place of business in the United States or any territory, possession, or commonwealth of the United States.

The term "interstate commerce" is defined to mean trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and [*page 18*] any place or ship on trade thereof. The term includes the interstate use of a telephone or other interstate means of communication and the intrastate use of any other interstate instrumentality.

The penalties for each violation of section 103 or section 104 would be a fine of up to $10,000 or imprisonment for up to 5 years, or both, but in the case of a corporation a fine of up to $500,000 could be imposed.

b. title ii - disclosure

[*OMITTED*]

Cost of Legislation

[*OMITTED*]

Additional Views of Senators Tower, Garn, and Lugar

[*OMITTED*]

1. See Senate Report No. 94-1031, 94th Cong., 2d sess.

2. See Senate Report No. 94-917, 94th Cong., 2d sess. (1976) to accompany S. 3084, the Export Administration Amendments, Foreign Boycotts, and Domestic and Foreign Investments Improved Disclosure Acts of 1976.

3. The phrase "disposition of its assets" is not intended as a limitation on the scope of the requirement that accurate books and records be maintained. The issuer's responsibility to keep records correctly reflecting the status of its liabilities and equities is no less than its obligation to maintain such records concerning its assets. The word "transactions" in the bill encompasses accuracy in accounts of every character.

4. For example, rule 2(e) of the Commission's rules of practice, 17 CFR 201.2(e), authorizes the Commission to censure, suspend, or bar professionals, such as accountants and lawyers, from practicing before the Commission. A public or private rule 2(e) proceeding might, in the Commission's view, be preferable, or used in addition to a civil injunctive action or criminal referral , in particular cases.