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"Under God, the people rule"

Government Regulations Don't Make You Safer

By David John Marotta on May 23rd, 2011

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The United States has three sectors of the economy suffering under regulatory red tape: financial services, energy and now health care. I'm certain the financial services regulations have caused more harm than good.

The Sarbanes-Oxley Act of 2002 introduced complex and costly regulations that make it more difficult for American companies to compete globally. Passed after the Enron scandal, it burdens all publicly traded companies with added accounting tasks.

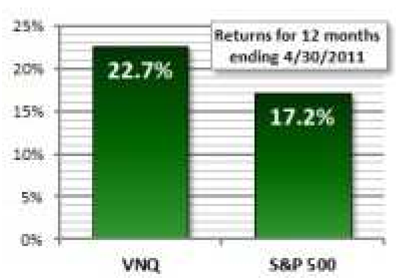
One of the side effects of Sarbanes-Oxley has been to drive companies to list on the Alternative Investment Market (AIM) of the London stock exchange where they are not subject to these regulations. Another has been the reduction of initial public offerings on U.S. exchanges. Sarbanes-Oxley was supposed to ensure we would never be surprised again by a large company suddenly becoming insolvent. But as we all know, Lehman Brothers, Merrill Lynch, Fannie Mae, Freddie Mac, Washington Mutual, Wachovia and AIG proved otherwise.

Conservative estimates put the compliance burden of Sarbanes-Oxley around $33 billion annually. To put that in perspective, investors lost just under $11 billion from the height to the bottom of the Enron scandal. Sarbanes-Oxley costs your investment portfolio three Enrons annually. And it still did not protect you from the financial meltdown of 2008.

I believe regulations in the health-care and energy sectors are equally useless at protecting workers and consumers. Most of the so-called safety violations in the mines are paperwork violations rather than actual safety violations. Now that there are more third parties who must sign off on the implementation of deep-water emergency cutoff values, does anyone think the additional paperwork makes the environment safer?

Americans are slowly realizing that more regulation simply means more paperwork, not more safety. Nor does it mean better consumer protection. In most cases it is as useless as passing a law stating that planes can't fly within 800 feet of tall buildings. Or one that requires people to show their pilot credentials before taking the controls of a plane.

Harry Markopolos, author of "No One Would Listen," filed five complaints with the Securities and Exchange Commission (SEC) exposing Bernie Madoff as the operator of a Ponzi scheme years before his admission. As his book title reveals, no one would listen. Markopolos suggests this happened because the SEC is filled with lawyers, not financial professionals. Their investigations found Madoff's bookkeeping in order, and they never bothered to match his paperwork against reality.



Contrast that with the fact that more than 95% of SEC examinations of registered investment advisors identify at least one deficiency. The vast majority are incorrect paperwork. The financial services world may very well be filled with sharks who want to separate you from your money. But even teams of regulators can't replace your own vigilance and education. Those same teams of regulators couldn't find the biggest Ponzi scheme in history even when it was handed to them on a silver platter. Nor could the reams of regulations in Sarbanes-Oxley enforce the correct valuations of unbacked mortgages in the financial system.

The costs of compliance are greater than the disaster. These regulations are a permanent drag on our economy, eating away at the productive capacity of innovative and hardworking Americans. And many in Congress want to regulate the Internet, the last bastion of American ingenuity. Last month Net Choice released its list of the worst proposed state or federal legislation at iawful.com.

Their website stated, "Knee-jerk, overly prescriptive laws can destroy entire business models or stifle innovative new forms of communication before they have a chance to develop. Too many laws are proposed without considering unintended harm they may cause to thousands of Internet companies and millions of Internet users."

Unfortunately, what is true of the Internet is also true of energy, finance and health care. Technology is what America does best, partly because of our lack of regulation, which allows and encourages innovation. Historically, health care was the second best performing sector of our economy for the same reason. Last year health care was the second worst sector of the stock market because of the new health-care regulations.

Sarbanes-Oxley has been in force long enough to see many of the unintended consequences that could not have been anticipated before the law was passed. William A. Niskanen, chairman of the Cato Institute and the contributing editor of "After Enron: Lessons for Public Policy," called Sarbanes-Oxley "unnecessary, harmful, and inadequate."

He said it was harmful "because the SOA substantially increases the risks of serving as a corporate officer or director, the premiums for directors and officers' liability insurance, and the incentives, primarily for foreign and small firms, not to list their stock on an American exchange. The ban on loans to corporate officers eliminates one of the most efficient instruments of executive compensation. And the SOA may also reduce the incentive of corporate executives and directors to seek legal advice."

Until voters recognize the unintended costs of regulations, politicians will continue to gain political capital by passing such feel-good legislation. Voters have to cultivate a mindset of freedom and deregulation rather than first thinking, "There ought to be a law."

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