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Fact Sheet: "Setting The Record Straight On Cost-Benefit Analysis And Financial Reform At The SEC"
A Report Published By Better Markets

The Background:

The battle over the Dodd-Frank financial reform law continues to rage in the political, legislative, regulatory, and judicial arenas. A key lethal weapon in that battle has taken on new prominence: the attempt by the financial industry to subject every regulation to an extensive cost-benefit test, which will be impossible for the agencies to meet. While "cost-benefit analysis" sounds reasonable, it's no more than a Trojan Horse that will have the effect of killing financial reform.

The financial industry claims that the costs of financial reform to it are too high, that they will stifle growth and employment, and that the agencies have failed to conduct the proper cost-benefit analysis. While baseless, these arguments have had some success, including a major court victory and a slowdown in the pace of rulemaking at some agencies. There are numerous flaws in these arguments. First, they ignore the worst financial collapse since the Crash of 1929 and the enormous cost that it has inflicted on the American people. Second, they do not account for the benefits of avoiding those calamities from happening again. And third, they fail to even mention that there is no legal or legislative basis for prioritizing costs to the industry over protecting the public and the markets from reckless, high risk trading and investments.

The Report:

Remarkably, this latest industry attack on financial reform has largely gone unanswered, until now. The Report reviews the depth of the financial crisis and its costs to the American people, the need to re-regulate Wall Street, the benefits of avoiding a future crisis, and the economic analysis that the law actually requires agencies to conduct when they issue rules. The inescapable conclusion is that imposing the industry's cost-benefit standard would greatly weaken if not kill financial regulatory reform, which would leave the American people at the mercy of the financial industry again and almost certainly result in another major crisis where taxpayer bailouts are inevitable. Moreover, it's not a stark choice between cost-benefit analysis or nothing. The law already requires the agencies to consider a number of economic factors, but only after properly protecting the markets, taxpayers and the country.

The Key Findings of the Report:

1. **The Securities Laws do not require the SEC to conduct cost-benefit tests when it promulgates rules**. On the contrary, Congress intentionally did not impose that obligation, deciding instead that the SEC should continue to place investor protection and the public interest first among its priorities.

2. **Requiring the SEC to apply extensive cost-benefit testing in its rulemaking process would create insurmountable obstacles to regulatory reform**. It is a time-consuming, imprecise, and ultimately unreliable methodology in the realm of financial market regulation and excludes many of the costs and benefits to investors, markets, and the country.

3. **The key court case used to attack regulatory reform was wrongly decided**. In *Business Roundtable***,** the D.C. Circuit panel ignored or misapplied virtually every principle and policy that bears upon the review of SEC rules.

4. **The SEC, the other financial regulators, and any court reviewing their rules, must adopt a holistic approach when assessing the impact of the rules implementing regulatory reform**. Every rule must be evaluated in the context of the entire financial reform law and the many benefits it will bring to our markets, our economy, and our society as a whole.

Better Markets:

Better Markets, Inc. is a non-profit organization based in Washington, D.C. that promotes the public interest in the domestic and global capital and commodity markets. It advocates for greater transparency, accountability, and oversight in the financial system.

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