

Simon, Ammon (Banking)

From: Patrick Reardon
Sent: Thursday, April 14, 2022 5:48 PM
To: submissions (Banking)
Subject: JOBS ACT 4.0

Dear Hon. Senators,

I am a retired attorney who practiced securities and M&A law in the DFW area for 38 yrs. I served on the SEC's small business advisory committee in 2014-2015.

I applaud the efforts to adopt a new JOBS Act. The law adopted a decade ago was a boon to small business. With respect to the proposed JOBS Act 4.0, I have the following comments.

No Empirical Data. During my career, I have been struck by how little securities regulation is supported by fact. Opinions and anecdotes hold sway. The studies provided in the new JOBS Act should mandate some sort of study by an independent group as to what information is important to investors and what disclosures are politically driven or otherwise unnecessary. Since the SEC created the current disclosures, it cannot be expected to make this study with any objectivity.

Remember That Most Businesses Are Honest. In the past, Congress and the SEC have often sought to address securities fraud with more disclosure requirements. When there is fraud, Congress and the SEC need to ask is there a causal connection between the fraud and the disclosures. Or is it a case of crooks being crooks? If a crook is going to steal, is he or she is likely to be deterred by additional disclosure requirements? I think not. Keep in mind that there are over 50 federal, state and NGO agencies in the U.S. pursuing securities violations. How effective are these regulators? The SEC alone spends half a billion dollars annually on enforcement. If there is fraud and you want a scapegoat, the first person to blame should be the enforcement people, not honest businesses

Remember President Reagan's Warning "The nine scariest words in the English language are "I'm from the government, and I'm here to help." *Over-regulation* killed the small cap IPOs. In drafting the new JOBS Act Congress should be skeptical of SEC "assistance" in reinvigorating small cap IPOs. The SEC was a key player in creating the problem. The next time you meet with a member of the SEC or a staff member, ask yourself, "Has this person ever signed the front of a business check?" Most times the answer will be "NO". That is surprising and frightening given the SEC is the principal regulator of the world's largest capital market. It is hard to regulate that which you don't understand.

Remember the Bureaucracy's Contempt for the Flyover Zone (i.e., your constituents). This point is less true with the five commissioners than the senior staff at the SEC. Many of these people are at the SEC until they land the big bucks gig on Wall St. or in D.C. If issues are not of interest in those job markets, to heck with them. A key example of this neglect has been issues related to finders and the excessive regulatory burdens of finders registering as securities brokers. This is a decades-long problem in the Flyover Zone when capital sources may be scarce, but of little interest to the big players on Wall St. The SEC's Div. of Trading and Markets has long neglected this topic, and I believe it has been for the reasons I described. In other words, this is an issue of interest to small businesses and their owners in most states—i.e., many of the Senators' constituents. Listen to the voters, not the bureaucracy.

Securities Disclosures Have More Fads Than Middle Schoolers. Remember accountants' independence, Y2K, compensation review, internal controls, diversity mandates, environmental risks, ESG, etc.? All these fads and the related disclosures cost money and deter small company IPOs. Please try to legislate so that disclosure requirements are not reeds blowing in the political winds.

Each of you Senators has wise business leaders in your state who will be happy to share wisdom. Ask a trusted business leader in your state to convene a luncheon, coffee, meeting, etc. with a cross-section of business people to offer ideas, and GO AND LISTEN!

I hope these are helpful.

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