

When regulation hurts the little guy

By Nitin Pangarkar

WHILE much praise has been heaped upon former US president Barack Obama's legacy, one unfortunate aspect of his presidency was the belief that everything could be solved by passing incredibly complex regulation.

The Dodd-Frank financial regulation bill, signed into law in 2010, has been particularly contentious. Characterising it as a confused and bloated law, *The Economist* opined that it was "too big not to fail".

Indeed one of the campaign pledges of Donald Trump was to scrap Dodd-Frank, saying that rather than reining in banking excesses, it made Wall Street an even bigger threat to America's economy and working families.

In his first meeting with business leaders on Jan 23, the new US president said he would cut regulations by 75 per cent, adding that the laws he had inherited "make it impossible to get anything built".

Whether he ultimately fulfils that pledge remains to be seen, but his vocal stance on

rolling back unnecessary or counterproductive regulation raises some interesting issues from which we in Singapore are not immune.

Take the example of small-scale investors buying or selling a small amount in unit trusts at their local bank. It should be a relatively simple task. You fill out a form, submit it and the trade will be done in due course.

Unfortunately, a raft of regulations imposed since the 2008 financial crisis means even small trades involve wading through a mountain of paperwork designed to assess, among other things, your investment knowledge and your risk profile – a notoriously difficult thing to assess.

The regulations follow a number of cases when investors were sold products that were inappropriate for their age, finances or their risk appetite. This is intended to protect the consumer – the "little guy" – from the sophisticated and powerful "big guy"; in this case, financial institutions such as banks.

Certainly protecting the "little guy" is important, but there are side effects to attempting to do so, sometimes leading to a situation of having too much of a good thing.

I once asked a banker why I had to complete so much paperwork to buy a few thousands dollars worth of unit trusts but not for buying property, which involves several hundred thousand dollars. The answer was that property purchases do not fall under Monetary Authority of Singapore (MAS) regulations but unit trust purchases do. Thus the degree of regulation seems to not only vary by country but across industries, depending on what agency is in charge.

OBSTACLES TO OPPORTUNITY

Another sector burdened by over-regulation is healthcare. While nobody can argue with the need for healthcare to be of the best quality, regulation has its price in the form of higher prices (increased paperwork adds to administration costs) and, more importantly, diverting the attention of doctors from their job of treating patients to completing reams of forms.

While some regulations are no doubt sensible, others are likely to be draconian and serve only as obstacles to opportunity. Aspir-

ing entrepreneurs, for example, can easily see their dreams crushed when presented with a maze of regulations for which they have neither the time nor the resources to navigate. The "little guy" is losing out because the barriers to entry created by a thicket of regulations are too high.

That is not to say that regulation is not welcome in certain areas: it is useful – indeed essential – in cases of true and significant market failure.

A case in point are the so-called "lemon laws" on standards and performance of used cars. These are useful because vehicle purchase transactions are high value and a typical buyer doesn't know much about cars nor about how well the previous owner took care of the car.

Such situations are clearly a case where the contract law principle of *caveat emptor* (buyer beware) is insufficient and hence regulatory intervention is needed.

Fundamentally, though, a key concern about too much regulation is that it assumes that most people and companies are cheats. Perhaps instead it is time to argue the case for

a more optimistic outlook. Is it always necessary to force a majority to jump through unneeded hoops because of a small number who may try to break the rules?

Many countries today suffer from a situation where regulation becomes counterproductive – where its costs exceed its benefits – because it tries to prevent every little market failure.

Based upon a zeal to protect the "little guy" from the possibility that he might lose out, regulation may end up actually hurting him instead.

It is important, therefore, for us to constantly question the benefits and costs of regulation, especially in the case of kneejerk reactions to isolated failures. I certainly hope that Singapore does not ever reach the stage seen in the US and other countries – although it has already taken a few steps in that direction.

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