Trump Administration Makes Moves to Reign In Dodd-Frank

February 3, 2017 - Earlier today, President Trump signed the first executive orders to put a hold on some regulations mandated by Dodd-Frank; the financial regulatory bill that has reshaped the financial services industry. The President has made it clear that he considers the law to be a government overreach - calling it "a disaster" - and that he plans on dismantling large portions of the law. That position has many consumer advocates up in arms. But the fact is that Dodd-Frank has clearly had negative ramifications for economic recovery and that there are portions of the law that have hurt both consumers and businesses.

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There were actually two executive orders on Dodd-Frank regulations signed today. The first of these was an instruction to reconsider various rules that were put in place as a result of the law. Specifically, the President is concerned with the portions of the law that have to do with financial institutions that are considered "too big to fail." When Dodd-Frank was put in place, it required lenders to increase their cash reserves. That requirement has made it more difficult for businesses to get a loan; something the President wants to change.

The financial reserve requirements under the law have created particularly difficult compliance issues for small community banks. These institutions typically have limited amounts of capital to lend in the first place. Dodd-Frank has reduced their ability to lend even more. And because many community banks are located in lower income areas, the negative impact of the regulations is amplified.

The second order put on hold something called the "fiduciary rule," which was mandated by Dodd-Frank was to be implemented by the Labor Department on April 1. That rule specified that financial services representatives dealing with IRA's and 401K's would always have to recommend products to their customers that were in the customer's best interest or to face stiff penalties. You might think that sounds greatâ€¦ and it does on paperâ€¦ but the rule will create some unintended consequences.

Because of the penalties associated with the fiduciary rule, many small investors would have found it impossible to get any advice at all regarding their IRA investments. That's because financial services companies wouldn't have been able to profitably manage small accounts with the risk of huge fines hanging over their heads. The current rules simply state that recommended investments need to be "suitable" for an individual client.

The reason congress included the fiduciary rule in Dodd-Frank is because large financial services companies often recommend investments of their own products. These products may not always be the lowest priced or the best product of a certain type available. That said, Dodd-Frank's approach was to kill the fly with a sledgehammer. A simpler and less expensive approach would have been to make financial advisors disclose any investments in which their company has an interest.

Neither of these orders will change any part of the current law. Only congress can do that. But they clearly indicate that the Trump administration is moving more towards financial deregulation than we've seen in the past eight years. And in the case of the second order signed, it indefinitely delays any implementation of the fiduciary rule.

With that said, consumers would be well served to ask their financial advisors if the company has any interest in the investments that are being recommended. If the answer is "yes," further homework may be appropriate to determine if the recommended investment is the best available. And if your investment advisor regularly recommends investments that have affiliations with his company, and those investments are performing, it may be time to find a new advisor.
byJim Malmberg
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