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Economic downturn - 2008
Deepest dip since Great Depression
Question – Where to from here?
Reflex action – more regulation
Is that correct?
Two Views on Regulation
Dr Hughes – Sunday Independent 3.4.11

View 1

- “He who creates laws increases sorrow” (Old Proverb)

- Regulation
  - Causes cost and injustice
  - Limits economic activity
  - Stupid and arbitrary
Two Views on Regulation
Dr Hughes – Sunday Independent 3.4.11

View 2

- We have the choice of
  - Anarchy or
  - “Freedom under law”

- Regulation prevents more harm than it causes.
What does History Prove?
Dr Hughes – Sunday Independent 3.4.11

- 30 years after WWII
  - High regulation of financial institutions
  - Based on memory of Great Depression
  - Seemed to work with few difficulties

- No doubt brought
  - Higher cost of capital
  - Lack of economic innovation
What does History Prove?
Dr Hughes – Sunday Independent 3.4.11

- Ironic – 30 years after WWII
  - Years of good economic performance
  - Good growth and productivity
  - Closing of the wage gap

Unintended consequences?
Freer era to 2008

- More misbehaviour
- Destruction of companies – e.g. Lehman Bros
- Cost a lot of money
- Shook confidence in the whole system
What does History Prove?
Dr Hughes – Sunday Independent 3.4.11

- Post 2008
  - Public incensed
  - Executives seen as creating havoc and greedy
  - Bonuses seen as obscene
  - Call to regulate remuneration
At Davos 2011

- Business view: excessive regulation will do more harm than good.
- Regulators’ view: we must go further to prevent a recurrence of 2008.
Conclusion Based on History
Dr Hughes – Sunday Independent 3.4.11

- Regulation seems attractive

- Only questions -
  - What sort?
  - How much?

Do it properly!
Types of Regulation

- Numbers
  - e.g. Margin or Reserve requirements

- Separation of roles, functions and services
  - e.g. Split simple banking services from high risk products and services.

- Transparency
  - Improved information
  - Better reporting and accounting standards
Types of Regulation

- Good regulation requires the right balance of measures.
- Too much regulation pushes people into opaque and un-regulated areas.
Regulatory Cycle

Dr Hughes – Sunday Independent 3.4.11

Is this inevitable?
Strengths

- World Class
  - Accounting (Early on IFRS)
  - Auditing
  - Corporate Governance (King III)
  - Regulation
  - Ombuds Process

BUT

- Poor Competitiveness
The South African Experience

Why did we do well in 2008?

- Good regulation?
- Exchange control?
- Business judgement?
- Good management?

All of the above!
The South African Experience

Poor Competitiveness
- Over regulation stifling growth and job creation?
- Lack of scale?
- Skills shortage?
- Labour dispensation?
- Strong currency?

Probably education!
The South African Experience

The JSE 1994
- Closed floor
- Screen trading
- Dual capacity
- New capital requirements
- London listing requirements
- King I
- Opened to banks and foreign brokers
- Deregulation of commissions

New legislation required
The South African Experience

The JSE Today

- Market capitalisation: Rbn6785
- World ranking: 19
- Number of listed companies: 405
Financial Sector

- Had to contend with rapid and far reaching changes
- Third longest employer in private sector
- Two year’s ago 14% of labour force
- Now 12% of labour force
The South African Experience

Flood of Legislation & Regulations

- Stock Exchanges Control Act
- Listings requirements
- King III Corporate Governance
- Financial Advisory & Intermediary Services Act
- Consumer Protection Act
- Companies Act (May 2011)
- Protection of Personal Information Bill
The South African Experience

Legislation & Regulation

- High costs of compliance
- High barriers to entry (lack of transformation)
- Fear of examinations = retirements
- Intermediaries focusing on fewer products to clients’ detriment
Question by Peter Matlokala

“What is the cost of implementing first world legislation in a developing economy such as South Africa?” (Adapted)

Can we afford not to?
Areas to be Addressed in SA

- Transparency of bank charges
- Regulation of off market transactions (e.g. OTC derivatives)
- Regulation of credit rating agencies
- Shift to regulation based on principles, ethics and “treating the customer fairly”
Quo Vadis

Areas to be Addressed in SA

- Closing the cracks between regulation
- Deal with long term nature of financial service products (esp. insurance)
- Enhanced financial consumer education
- System to wind down large entities in times of need
Conclusion

- No one believes financial services sector can regulate itself
- We have proof that poor conduct can lead to systemic risk
- Best codes in the world not better than people who implement them

REGULATION IS CRITICAL
BUT MUST BE WISE!