



# Punish the crooks, not the system

By Daniel J. Popeo

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In the midst of our ongoing financial crisis, a chorus of critics including Venezuelan President Hugo Chavez, French President Nicholas Sarkozy, anonymous al Qaeda leaders, and various U.S. pundits has declared market capitalism dead. To them, the list of blunders that led to this crisis begins with too much economic freedom and ends with not enough government.

If current and newly elected leaders buy into these financial urban legends, the American public is in for even more intense and prolonged economic pain.

While we are rightly concerned about our economic future, we should be even more worried about what government will do next.

Our heavily regulated credit markets were pushed to the brink of collapse in spite of hundreds of laws and rules enforced by a disorganized alphabet soup of federal and state agencies. Consider that one entire federal agency was devoted to overseeing Fannie Mae and Freddie Mac. But a \$65 million yearly budget and 200 employees couldn't prevent Fannie and Freddie's massive accounting misstatements or halt their path to being entirely taken over by the government.

And no amount of oversight could have stopped the wreckage that resulted when ideologically motivated politicians socialized major aspects of mortgage lending. Congress and the executive branch compelled Fannie and Freddie to purchase toxic mortgages and take on massive risk.

Our crisis provides a fertile environment for longtime antagonists of market capitalism to advance their agendas, and for opportunistic lawyers and activists to feed on the remains of taxpayer wealth.

Elected officials must resist demands for drastic changes which will satisfy ideologues, but do little to solve any problems. They must heed one of America's most credible capitalists, Warren Buffett, who said, "there are significant limits to what regulations can accomplish."

Elected officials must resist demands for drastic, fundamental changes that will satisfy ideologues, but do little to solve any problems. Federal investigators and prosecutors should vigorously enforce existing laws to catch the crooks, but be careful not to target entire businesses whose employees are innocent victims of a fraudulent few.

As National Association of Criminal Defense Lawyers Senior Director Stephanie Martz points out in a

recent analysis, the government “is sufficiently armed to pursue any criminal conduct that may be related to the market crisis” with statutes on false statements, wire fraud, securities fraud, obstruction of justice, and bank fraud.

Congressional overreaction in the form of far-reaching restrictions and more criminal sanctions will only further punish our national and local economies. When government goes too far, it drives up consumer costs for everyday goods and services, and chills innovation and job creation. It forces businesses to look for opportunities overseas, where other countries’ regulatory and legal systems are more conducive to investment and commerce. Needless criminalization also undermines our faith in government’s ability to impartially apply the rule of law.

The real challenge is to make and keep government more accountable when it intervenes in American business. We are in fact already hearing calls from some in Congress and even in the media for specific information on which institutions are receiving government “rescue” funds. We also need incentives for greater transparency from those who create and market financial instruments.

America and its people have thrived for more than two centuries thanks to free enterprise and commerce. That’s why our mission at Washington Legal Foundation will always be to protect business civil liberties and all Americans’ opportunity to engage in honest commerce.

The very same entrepreneurial spirit that allows us to support our families and pay our taxes can lead us out of the current financial crisis. If our financial system is beaten down by destructive rhetoric and shackled with counterproductive restrictions, all of this will eventually push profit patriots like Mr. Buffett to the sidelines, and many more will follow.

America’s history has shown time and again that more commerce, not more government, is how we can work out of troubled economic times.

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