

Response to Prof. Paul Healy's Reg FD Paper

By

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Reg FD has accomplished much of what the SEC desired

- It leveled the playing field so retail investors have access to earnings calls, etc. but in doing so, it commoditized information
- It virtually eliminated analysts' special access to new material information
- Only seven SEC enforcement actions have been brought against company officials

Disclosure Environment Pre-Reg FD

- Late 80s and early 90s an increase in shareholder lawsuits over earnings misses
- Resulted in a decline in voluntary disclosure until Congress passed the 1995 Private Securities Litigation Reform Act

Disclosure Environment Pre-Reg FD

- 1995 NIRI survey on disclosure practices
- Two-thirds were engaging in selective disclosure
- Formed a NIRI/AIMR task force to create best practices for corporate disclosure

SEC Launches RD Rule-Making

- While AIMR, SIA, ABA fought proposed rules, NIRI worked with SEC staff
- Two most difficult issues to resolve
 - Staff perception that one-on-ones were ripe for selective disclosure
 - The Internet could not serve as a means for real-time, full and fair disclosure

SEC Launches FD Rule-Making

- Absent fully accessible Web cast for earnings calls and investor presentations, there would not be the free flow of information we have today
- Reg FD provided a “media carve-out”
- Opponents of the rule claimed it would result in a decline of information, wider dispersion of earnings estimates and greater stock price volatility

Earnings Guidance

- Percentage of companies providing quarterly earnings guidance dropped from 79% to 27% from 2001 to 2007
- 58% provide annualized guidance
- Increasing percentage providing no earnings guidance

Impact of Global Settlement on Leveling the Playing Field

- Prof. Healy's focus on the impact of the \$1.4B Global Settlement on leveling the playing field is spot on
- Separating research from investment banking caused many of the best and brightest analysts to go to the buy-side, hedge funds and independent research firms

Impact of Global Settlement

- One important component of the Global Settlement that was less than successful was the \$432M set aside for independent research
- Since the five-year set-aside based on fines, there's been significant growth of independent research based on demand from the buy-side and hedge funds

The Bottom Line

- Are we better off today with Reg FD?
 - Need to level the playing field was important
 - No question that investors from retail to the largest institutions have broader access to information but in no way can they compete with the professional investors
 - Material information has been commoditized thus requiring buy and sell side analysts to work harder to make a difference

The Bottom Line

- There's substantial evidence that the overall coverage and quality of sell-side research has declined
- The major concerns of the opponents of Reg FD were not realized