Stock Rules Irk NYC as Wall Street Parties On

Officials and CEOs say oversight regime undermines U.S. exchanges. Studies put key risks elsewhere.

Los Angeles Times
Walter Hamilton
April 23, 2007

NEW YORK — Judging from the crowded tables at the Hawaiian Tropic Zone in Times Square, it's hard to believe that some people are fretting about the future of Wall Street.

The restaurant, where bikini-clad waitresses serve grass-fed veal chops and white peach Bellini cocktails, counts on free-spending bankers and traders for 20% of its business.

"They definitely spend a lot of money, more than the tourists," said waitress Katherine Mesa. "The Wall Street guys are used to money."

The Hawaiian Tropic Zone is the latest sign of a city that's minting money, thanks to the boom on Wall Street. Landlords, luxury car dealers and champagne merchants have no complaints.

So why all the gloom in Gotham?

A chorus of politicians and CEOs is grousing that excessive regulations are driving corporate finance and securities trading out of America and its financial capital, New York City, to business-friendly Europe and Asia.

A recent study released by Mayor Michael R. Bloomberg and Sen. Charles E. Schumer (D-N.Y.) said the U.S. share of the global financial-services market could shrink 4% to 7% in five years, costing up to $30 billion in revenue and 60,000 jobs.

The U.S. Chamber of Commerce, the Committee on Capital Markets Regulation and Treasury Secretary Henry M. Paulson Jr. have sounded similar alarms. Their solution: Roll back some of the corporate watchdog rules adopted in the wake of the Enron Corp. scandal.

To critics, the warnings reflect an effort by business interests to defang the Sarbanes-Oxley Act and other measures aimed at preventing the kind of accounting sleight of hand that defrauded investors in Enron Corp., WorldCom Inc. and other companies.

"This represents a business backlash purportedly driven by 'competitive concerns,' " said Harvey Goldschmid, a Columbia University law professor and former Securities and Exchange Commission member. "But in reality it's aimed at restrictions that they don't like."

The Bloomberg study, for example, said runaway litigation had driven up business costs and scared away foreign investors. But securities lawsuits have actually dropped sharply, according to a study by Stanford Law School and Cornerstone Research in Boston. There were 110 suits filed last year, 43% below the 10-year average, the study found.

Pro-business forces, however, say the growing strength of financial markets in places such as London and Hong Kong poses a competitive threat. The United States, they say, can no longer assume that foreign companies will list their stocks here or fast-growing hedge funds will set up shop in American cities.

The problems are genuine, said Hal Scott, a Harvard Law School professor who headed the Committee on Capital Markets, one of the groups calling for reduced regulation.

"We all want quality and integrity" in the marketplace, Scott said. "These are the strengths of our market. But it doesn't mean that every rule or regulation contributes to that."

As one example, Scott and others cite the diminishing role the U.S. is playing in initial public offerings.

In 2000, the New York Stock Exchange and Nasdaq Stock Market handled 411 IPOs raising $100 billion, or 48% of the worldwide total, according to research firm Dealogic. That shrank to 201 deals last year totaling $46.6 billion, or 18% of offerings.

IPO volume on the London and Hong Kong exchanges more than tripled, to $55 billion and $47 billion, respectively, according to Dealogic.

"Part of the way we distinguish ourselves and the way people around the world identify us is as the world's financial capital. Wall Street is synonymous with that," said Daniel L. Doctoroff, New York deputy mayor for economic development and rebuilding. "To the extent that we lost that position, you'd be undermining a fundamental building block of New York's identity."

But others say rising foreign stock listings are a byproduct of technological advances, economic trends and the maturation of international markets.

U.S. mutual funds now trade stocks 24 hours a day from offices around the world. That means foreign companies can lure U.S. investors just as easily from London or Shanghai as from New York.

Because companies want to list in the fastest-rising markets, many are staying in their home countries, which have outperformed the U.S. in recent years. Some companies also are turned off by the outsize fees that New York investment banks charge, which can be nearly double those in Europe and Asia.

"Regulatory issues do matter, but they're not the key issue," said Sandra Lawson, a Goldman Sachs economist, who wrote a report on the issue. "Much more important are economic growth and market maturation elsewhere."

Some experts even question the assumption that foreign companies are shunning the U.S.

Foreign firms made up 16% of the IPOs on U.S. exchanges last year, the highest level in 20

years, according to a Thomson Financial study. Since Sarbanes-Oxley was passed in July 2002, there is "little evidence" that foreigners have snubbed the U.S., the report concluded.

Deregulation advocates also point to the rising number of companies that are delisting from exchanges and returning to private ownership. They're doing so, these people say, because of exasperation with regulations on public companies.

Companies are indeed privatizing, but the trend is playing out worldwide, counters Jay Ritter, a University of Florida finance professor.

From 2002 to 2006, 10.7% of mergers involved so-called private-equity firms buying public companies and taking them private, according to Ritter, compared with 2% from 1996 and 2001. But it jumped to 6.6% from 0.7% in Japan and to 12.9% from 4.3% in Europe, he said.

Even some on Wall Street — which has never been known for embracing regulation — see no need to relax securities laws.

"The U.S. has actually prided itself on having the toughest regulations in the world … and along with that, we were always thought of as the Mercedes-Benz of financial markets," said Richard Bernstein, chief investment strategist for Merrill Lynch. "My fear is that instead of maintaining our Mercedes-Benz cachet, maybe we decided that we want to be just a run-of-the-mill sedan. I don't think that's right."