The Impact of Mandatory Disclosure Laws on Public Companies: New Evidence from OTC Firms

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The number and scope of recent corporate scandals, as well as the resulting bankruptcies and plummeting stock prices, suggest there is an asymmetric information problem in American securities markets. That is, recent events have highlighted the problems that can occur when managers and other company insiders withhold information from shareholders and, in some cases, even misrepresent their company’s position and performance.

Believing government intervention was necessary, Congress hastily passed the Sarbanes-Oxley Act of 2002 to increase disclosure by corporations and improve governance within firms. Many business people have balked at the high costs of complying with the new legislation. For example, a recent issue of The New Yorker quotes Stephen Moore, the founder of the Club for Growth, describing the law as “a new cancer.”

For decades, some economists (led by the late Nobel Prize winner George Stigler) and business people have consistently argued that additional legislation in the securities market is not nearly as efficient as private contracts combined with the possibility of litigation. In this framework, if firms do not provide information about their inner workings, then the value that shareholders place on the information must not be high enough to offset the costs to the firms of providing that information. Lawsuits are a costly way to obtain information from a company, however, and an unregulated market could suffer from a free rider problem if no individual shareholder has a sufficient stake in the company to pursue litigation on his or her own.

Using the 1964 Securities Act Amendments to Infer the Impacts of Mandatory Disclosure Laws

In order to understand whether shareholders value government intervention in the securities markets, we recently completed an analysis of the effects of the 1964 Securities Acts Amendments. The 1964 Amendments extended the disclosure requirements that have applied to firms traded on the New York and American Stock Exchanges (NYSE and AMEX) since 1934 to large over-the-counter (OTC)
firms. The relatively lax disclosure requirements for OTC firms prior to 1964 meant that shareholders of these companies had fewer avenues available to obtain reliable information and penalize management for failures to maximize shareholder value.

The 1964 Amendments dramatically changed the disclosure requirements for OTC firms that exceed asset and shareholder floors. Specifically, covered OTC firms were required to:

1. register with the Securities and Exchange Commission (SEC),
2. provide regular updates on their financial position, such as audited balance sheets and income statements,
3. issue detailed proxy statements to shareholders, and
4. report on insider holdings and trades.

Some OTC firms were already fulfilling requirements (1) and (2) and only had to begin complying with (3) and (4), while others had to begin complying with all four provisions.

Our study assesses whether the 1964 Amendments led to improved stock prices and operating performance among affected OTC firms. Throughout the analysis, we compared affected OTC firms to NYSE and AMEX firms that were unaffected by the legislation. For the stock returns analysis, the comparison NYSE and AMEX firms were chosen so that they match the OTC firms on size and book-market equity, both of which have been shown to have an independent influence on returns.

The Impacts of the 1964 Amendments on Stock Returns and Operating Performance

We analyzed whether complying OTC firms had abnormal excess returns in the weeks that news of their compliance first became public. The SEC publicly announced a firm’s compliance 60 days after it received the necessary documentation from a company. Due to the potential for the premature release of this information by the company or others, we focus on a period beginning eight weeks before the official announcement through one week after its announcement.

Figure 1 presents graphical results of this analysis. Specifically, it plots complying firm’s abnormal excess returns in each week ranging from 20 weeks before registration through 10 weeks after registration, where the week is denoted by its distance from the week of the SEC’s announcement (i.e., week zero). The shaded area denotes the time window of interest. The abnormal excess returns are measured as the difference between the complying firm’s stock returns and the returns of similar NYSE/AMEX firms after a “factor adjustment” (market, size, book-to-market, and momentum) that is standard among financial economists.

The graph reveals that, on average, firms complying with all four of the new requirements had cumulative abnormal excess returns of about 3.5 percent during the critical 10-week window. The firms that were newly complying with only provisions (3) and (4) also had abnormal excess returns of about 3.5 percent. The flat lines before and after the SEC’s announcements of firms’ compliance highlight the fact that the abnormal excess returns are entirely concentrated in the precise period during which firms’ compliance became public information.

Due to the forward looking nature of financial markets, OTC firms may also have had excess returns in the period that the legislation was debated and ultimately passed. To estimate the full effect of the amendments on stock returns, we tested for excess returns from the time that the legislation was first proposed through the final date that firms were required to register with the SEC and thereby indicate their compliance.

Estimates indicate that OTC firms that were newly required to begin complying with all four forms of mandatory disclosure had statistically significant positive abnormal excess returns ranging from 11.5 percent to 22.1 percent, relative to similar NYSE/AMEX firms. The estimates come from regression models that adjust for differential sensitivities of the OTC firms’ stock returns to other factors driving returns. They imply that the 1964 Amendments created $3.2 to $6.2 billion (2005$) of value for shareholders of the OTC firms in our sample.

Comparisons of the returns among different groups of OTC firms and other periods further support the conclusion that shareholders valued the mandatory disclosure regulations. During the period from when the legislation was first proposed until the final date for registration for complying firms, the OTC firms required to begin complying with all four requirements outperformed OTC firms required to begin complying with (3) and (4). Further, the firms newly required to comply with (3) and (4) outperformed OTC firms that were too small to be covered by the 1964 Amendments. Additionally, the affected OTC firms did not outperform the NYSE/AMEX firms in the period after the legislation went into force, suggesting that the primary results are
unlikely to be due to unobserved differences between the OTC and NYSE/AMEX firms that are unrelated to the law.

We investigated the source of these excess stock returns among affected OTC firms. The leading hypothesis is that the mandatory disclosure laws bound managers to focus more on maximizing shareholder value. To explore this possibility, we tested whether the affected OTC firms exhibited improved financial performance after the legislation was in force. We find that, between the time the law was first suggested through when it had been in force for two years, the most affected OTC firms had greater income and sales growth than unaffected NYSE/AMEX firms. This result suggests that the market's expectation of improved performance was justified and helps to explain these firms' higher stock returns in the period described above.

Conclusions

These results are consistent with the hypothesis that mandatory disclosure laws can cause managers to focus more narrowly on the maximization of shareholder value. The precise benefits to the American economy are unknown, however, because we cannot determine how much of shareholders' gains were a transfer from insiders of these same companies. If diversion of firm resources by managers entails some waste and underutilization of resources (rather than just transferring the resources from one group to another), then our study implies that mandatory disclosure can lead to net benefits to the economy.

These results have a few policy implications. First, some legal scholars have called for the significant modification or repeal of the mandatory disclosure requirements studied here. Our analysis suggests that such a weakening of Federal oversight is unlikely to be beneficial for U.S. equity markets.

Second, the disclosure requirements studied here are less stringent than those specified in the recent Sarbanes-Oxley Act, so the results are not directly informative about the impacts of that legislation. Thus, our study fails to indicate whether some of the recent corporate scandals would have been averted if Sarbanes-Oxley had been on the books. However, it does suggest that these scandals might have been worse if the 1964 Amendments had not been in place.

Third, the study may be most relevant for the regulators who oversee the numerous developed and developing country equity markets where the disclosures outlined in the 1964 Amendments are not mandatory. Specifically, the results indicate that the introduction of regulations that mandate these disclosures is unlikely to be harmful and, in fact, is likely to be beneficial in these markets.

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