Business ethics a primer on sarbanes-oxley critical thinking

Business, Company

Abstract

Business ethics is a form professional ethics that addresses moral problems that arise in business environments. Ethics in business encompass avoiding breaking the law, avoiding actions that may result in legal suits being filed against the business and avoiding actions that may damage the image of the company. The scandals that rocked several American companies in early 2000, revealed rampant self-dealing, mismanagement, erroneous accounting procedures and other unethical business practices. In an attempt to restore investor confidence, congress initiated the Sarbanes-Oxley (SOX) Act in 2002. This paper seeks to critically analyze the business ethics issues as contained in the SOX Act. The paper shall respond to the three questions about the SOX Act: What is it? Why it's here to stay? And how do we make sense out of it?

Introduction

Ethics means standards of wrong or right behavior. Business ethics is a diverse subject that addresses ethical issues as businesses interact one-on-one with the customers and also with other stakeholders such as the government, the society, other businesses and other institutions affecting the operations of the business. It is imperative for all businesses to adhere to business ethics especially when they touch on barometer companies in any world economy. Involvement of big companies in unethical behaviors such as fraudulent and manipulated financial reporting (white-collar crime) has the potential to erode investor confidence and negatively affect the economy. Enactment of legislations such as the SOX Act is bound to streamline ethical

conduct among businesses. The SOX Act of 2002 sought to regulate accounting and auditing companies to ensure the sustainability of public companies and that of the economy by extension.

The Sarbanes-Oxley Act is an act that was signed by President Bush and adopted by the US congress in 2002. The legislation was sponsored by Maryland Senator Paul Sarbanes and his Ohio counterpart Michael Oxley. In the past three years, the world economic system had witnessed unprecedented violations of business ethics by leading companies, an occurrence last seen in the 1920s (Rockness & Rockness, 2005). The scandals which were attributed to inability of the Accounting profession to monitor its activities, affected large companies such as Enron, Tyco, Global Crossing, Healthsouth, Adelphia, and Worldcom among many others. Investigations into the scandals had revealed rampant self-dealing, mismanagement, erroneous accounting procedures among other unethical business practices (Smiley & Helms, 2004). These developments prompted congress to enact the Sarbanes-Oxley Act in 2002. The SOX Act sought to govern accounting practices, prevent collapse of the companies and restore damaged confidence of American investors (Jones, 2003).

The SOX Act entailed the creation of oversight bodies such as the Public Company Accounting Oversight Board (PCAOB) to oversee the accounting industry. Moreover, the Act sought to establish Auditor independence, corporate responsibility and enhanced financial disclosures (Rockness & Rockness, 2005). Overall the Act aimed at putting in place provisions that address the conduct of auditors, regulate internal corporate governance of

public companies and provide mechanisms to address the conduct of corporate attorneys.

The SOX Act is here to stay. Various quarters have hailed the Sarbanes-Oxley Act as a visionary and effective way to ensure sustainability of public and private companies. President Bush described the law as “ the most far reaching reforms of American business practices since the time of Franklin Delano Roosevelt” (Jones, 2003). The PCAOB scrutinizes accounting firms and ensures that only “ unblemished” firms audit for all public companies registered under the Securities and Exchange Commission (SEC). The PCAOB also has power to discipline public accounting firms involved in unethical conduct. The board acts on companies that are involved in fraud, inaccurate financial reporting among other white collar crimes touching on misconduct and negligence.

The SOX law has the potential to curb unethical actions by corporate leaders and prevent bankruptcies and restatements. Since 1997, more than 10 percent of US public companies restated their reports resulting in losses in market capitalization in excess of $100 billion (Rockness & Rockness, 2005). The SOX Act is here to stay because it provides pro-active measures to ensure that companies uphold business ethics. The autonomous bodies charged with the implementation of the law acts such as the PCAOB acts as watchdogs over public companies to increase compliance and prevent more scandals.

The SOX Act has the potential to enhance adherence to business ethics by companies. Though financial scandals have continued to rock various companies in America, the Sarbanes-Oxley Act was a timely response to curb the rising " epidemic" scandals that rocked the economy in early 2000 (Jennings, 2011). The fact that the Act recommends lengthy jail-terms and hefty fines for individuals responsible for financial scandals is bound to increase accountability and curb deliberate fraud.

The SOX Act also ensures leadership accountability in public companies. The Act mandates Chief Financial Officers (CFOs) and Chief Executive Officers (CEOs) of all public companies to fill forms appertaining to audit of their companies. The officers acknowledge reading the report and ascertain whether it contains misstatements or omissions. It recommends that " knowing" violators receive fines up to $ 1, 000, 000 and a 10-year jail-term (Smiley & Helms, 2004). The threat of fines and jail-terms has the potential to reduce fraudulent financial practices among individuals and enhance their adherence to business ethics.

The SOX Act provides for mechanisms to minimize conflicting interests between auditors, accountants, company managements and the other stakeholders. The SOX Act prohibits accounting firms that audit for publicly listed companies from performing the following tasks: Design and performance of financial information systems, Actuarial services, management and human resource functions, appraisal and evaluation services (Jones, 2003). In entirety, the Act prohibits accounting and auditing companies from conducting, brokerage, dealership and investor advisor

services for public companies (Smiley & Helms, 2004). In fact, the SOX Act bars an accounting company from legal and other service not related to auditing.

The SOX Act mandates the PCAOB to conduct regular inspection of registered firms and access their compliance with the Securities and Exchange Commission (SEC) and with the Act itself. Moreover, PCAOB requires each registered audit firm to maintain audit paperwork for periods of not less than seven years. According to Jones (2003) any firm that audits for more than 100 public companies must be subjected to an annual inspection while those that audit for less than 100 companies are subject to inspection once in three years. Moreover, the Act demands that the lead auditor rotates off an audit every five years coupled with a five year time out. The intention of this requirement is to inhibit collusions between the client and the auditors which could open up chances for fraudulent and unethical practices.

There are several benefits of adhering to ethical conducts. These include avoidance of expensive and embarrassing public relations disasters; enhancing recruitment of talented employees, a good image with the customers increases the sales volumes, highly motivated employees who are proud of their jobs among other benefits. The effects of unethical business practices in companies are far-reaching. The heavy fines imposed by the relevant authorities could cause collapse of the company. Scandals extensively damage company reputations leading to massive losses, while

scandals affecting large companies have the potential to ruin the national economy.

Conclusion

Ethics means standards of wrong or right. Business ethics are the principles regarding the rights or wrongs businesses prevalent in business environments. In the wake of several high profile scandals that rocked American companies such as Enron, Tyco, Adelphia among other companies registered under the Securities and Exchange Commission (SEC) in early 2002; congress adopted the Sarbanes-Oxley Act. The legislation sought to regulate accounting and auditing companies to prevent more scandals and restore investor confidence in the American economy. The scandals reflected rampant white-collar crimes characterized by manipulated accounting, mismanagement among other unethical business practices. Various quarters including President Bush hailed the SOX Act as having far-reaching reforms. The Act established the Public Company Accounting Oversight Board (PCAOB) to oversee the accounting industry. It also sought to establish Auditor independence, corporate responsibility and enhanced financial disclosures. The Act’s ability to enhance adherence to business ethics stems from its pro-active approach in addressing unethical business practices. The PCAOB regulates the accounting and auditing industry through strict measure to enhance compliance. The board has mechanisms to prevent collusions between auditors and company stakeholders to minimize chances of fraudulent dealings. Moreover, regular inspection of accounting firms as well as the imposition of hefty fines and lengthy jail-terms for white collar

criminals is bound to enhance individual and corporate adherence to business ethics. The negative effects of the scandals in early 2000 that prompted the Sarbanes-Oxley Act ought to serve as reminders on the importance of companies to adhere to business ethics. Financial scandals extensively damage company reputations leading to massive losses, while threatening to ruin the national economy. It is therefore imperative for all businesses to adhere to business ethics.

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