Hardening of the Global Compliance Environment

I have recently reviewed a remarkable book (Director and Officer Liability in Financial Institutions: A Deskbook by Samuel Rosenthal, Bloomberg BNA, 2012). A chapter on the statutory landscape lists no less than twelve (!) US Congress and Government comprehensive legislations as sources of FI directors and officers liability. These range from the Federal Deposit Insurance Act to the Federal Securities Laws to the Bank Secrecy Act to Gramm-Leach-Bliley to Sarbanes-Oxley to Dodd-Frank to Wall Street Reform and Consumer Protection Act; to privacy; and Anti-Money Laundering policies; the list goes on and on.

Similar legislations in the EU, Japan and many other leading jurisdictions around the
globe are not less restrictive. US Government and the European Commission often impose their own stringent compliance requirements on their Internet trading partners, allies or even adversary states.

There are undoubtedly good and valid reasons for the hardening of the global compliance environment but the resulting cumulative negative effect on banking and ecommerce innovation is quite significant. Regretfully, no substantial academic research has been conducted on this subject, nor the regulators have been provided with the credible approaches to mitigating the negative side effects of the comprehensive compliance legislation.

Internet banking and commerce is by definition a fast-growing global ecosystem with the highest innovation content. Regretfully, far too often it has been analyzed as an unrestricted technology play without much thought for the regulatory challenges that greatly affect profitability and implementation of ebanking and ecommerce solutions. To balance the technology view, JIBC circle of academics, leading practitioners and top industry executives should be addressing more proactively new effects of regulations and compliance on profitability of ebanking and ecommerce solutions.

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