Critiquing Cost Benefit Analysis in Financial Regulation, May 19-20, 2014

PAPERS AND BACKGROUND READINGS

Session 1: Background and Updates on CBA: Business Roundtable, legislation and policy implications

Background Materials:

- *Business Roundtable v. SEC (D.C. Cir. 2011)*
- AFR Letter in Opposition to HR 1003
- *National Assoc. of Manufacturers v. SEC (D.C. Cir. 2014)* (see the Court’s reasoning rejecting a cost-benefit challenge to regulations requiring disclosure of conflict minerals).

Session 2: What Financial Benefits and Costs Do We Count? Considering Societal Costs, Capital Requirements, Derivatives and Other Reforms

Papers and Background Materials:

- Marcus Stanley, "Can Cost-Benefit Analysis Pass the Cost-Benefit Analysis Test?" (Presented at AFR conference in 2012)
- Brief of Better Markets as Amicus Curiae in Support of CFTC in ISDA v. CFTC

Session 3: Learning from the Environmental Experience

- Amy Sinden, Formality and Informality in Cost-Benefit Analysis– see updated version to be circulated by email attachment.
- David Driesen, *Legal Theory Lessons from the Financial Crisis*, forthcoming 40 *J. Corp. Law*

Lunch Keynote & Discussion

- also, participants may be interested in a recent working paper, circulated in email attachment: Cass Sunstein, “Financial Regulation

Session 4: Policy Alternatives and Economics


Here are a few other readings and references for those who have additional time or interest:


Center for Progressive Reform: Cost-Benefit Analysis: Bad Numbers, Bad Decisions (overview with numerous helpful references).


Amy Sinden, CPR Blog, Executive Order 12866’s Cost-Benefit Test is still with us and I Can Hear Ben Franklin Rolling Over in his Grave (Oct. 2, 2013). 


Eric A. Posner and E. Glen Weyl, Benefit-Cost Paradigms in Financial Regulation (2014), giving an overview of a Univ. of Chicago Conference on Benefit-Cost Analysis of Financial Regulation, and arguing (in part) that on theoretical grounds, BCA should be easier for financial regulation than for other areas of regulation where it is already used, such as health and safety regulation.