

Business

# Americans Favor Regulations More Than Romney Bargained On

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Mitt Romney urged voters to reject President Barack Obama and his “job-killing” regulations. Obama’s victory last week shows many Americans aren’t as reflexively anti-Washington as Romney expected.

In fact, presidents through history who aggressively used the tools of government at their disposal have won favor, and re-election.

“The idea that there simply was a deference to private property and individual rights is one of these American myths,” said William Novak, a University of Michigan law professor who has written on regulatory history.

From Democrat Franklin Roosevelt to Republican Richard Nixon, leaders who imposed federal limits on monopolists, polluters and Wall Street have won re-election sometimes with resounding margins.

Elections, of course, turn on many issues. Republican Ronald Reagan seized a second term as a foe of federal rules. Yet the man he beat four years earlier, Democrat Jimmy Carter, deregulated U.S. airlines.

Romney, the Republican nominee for president and a former Massachusetts governor, promised to unravel Obama's signature Patient Protection and Affordable Care Act, repeal his Dodd-Frank Wall Street regulatory law and decried his environmental regulation as a "war on coal." While Romney conceded as Election Day neared that some regulations are beneficial, including new limits on Wall Street, he called Obama's rules excessive and pledged to mow them down with a "weed whacker."

### **No Asset**

"Its net effect in this milieu was not at all the asset that the Romney camp had hoped," Bill Adams, a professor of public policy at George Washington University, said in an e-mail. "The aftermath of an economic meltdown successfully blamed on insufficient regs is a tough time to decry regulation."

Obama's re-election was influenced by many factors, such as recent improvement in the U.S. economy and a support for the incumbent by women and minority voters. The results do show that reflexive anti-regulatory rhetoric wasn't enough to help build a majority.

"It seems likely that we as a nation are highly divided on the issue of regulation," said David Moss, a professor at Harvard University Business School who helped research financial regulations for the congressional panel that oversaw the Troubled Asset Relief Program, passed in response to the financial crisis in 2008.

"Trying to engage the public on these issues going forward could be important" because regulation is more sustainable with public understanding and support, Moss said.

## **Anti-regulatory Message**

Al Cardenas, chairman of the American Conservative Union, a group that promotes small government, said the problem was the way Romney presented his anti-regulatory message, not the substance of the argument.

“A general theme of a regulatory environment doesn’t move voters,” said Cardenas, who was an adviser to the Romney campaign. Anecdotal stories of people losing jobs because of Washington’s heavy hand would have been more effective, he said.

Exit polls showed that voters were divided on the administration’s most prominent regulatory effort, the health-care overhaul. Forty-four percent of the voters surveyed wanted to keep the “Obamacare” statute or expand it. About one-fourth wanted to repeal the entire law and another quarter wanted to repeal parts of the law and keep some of it.

## **Obama Record**

The pace of regulation under the Obama administration isn’t out of line with the rate set by its predecessors. Under Obama, the Office of Management and Budget reviewed 2,331 rules through fiscal year 2012, according to an analysis of OMB data by Robert Litan, Bloomberg Government’s director of research. Of those, 436 had an estimated impact of at least \$100 million.

That compares with 2,456 rules reviewed by OMB during the first four fiscal years of George W. Bush’s administration, of which 355 were judged economically significant, Litan wrote.

Cass Sunstein, the former administrator of the White House Office of Information and Regulatory Affairs, said in a Nov. 5 Bloomberg View column

that Obama had continued a tradition Reagan started by holding new regulations to “careful scrutiny” to ensure their benefits outweighed their costs.

“There is more continuity over the years than people often recognize,” said Marc Eisner, a professor of government at Wesleyan University in Middletown, Connecticut. “Congress passes new statutes and authorizes regulations. After a while, the institutions move under their own forces.”

## **Executive Powers**

With Republicans retaining control of the U.S. House of Representatives, Obama will need to rely during a second term more on his executive powers to push his agenda, said Edward Balleisen, an associate professor of history at Duke University in Durham, North Carolina, who has studied regulation.

“He’s probably going to be operating on the terrain of regulations rather than the terrain of statutory enactment,” Balleisen said.

Regulations in the early decades of the U.S. were primarily local and state matters, according to Novak. A 1837 law in Obama’s adopted hometown of Chicago prohibited the rolling of hoops in the city’s streets, for example.

Washington took a more prominent role in the growing industrial economy, with so-called Progressive Era policies such as the 1890 Sherman Antitrust Act. Democrat Woodrow Wilson, the 28th U.S. president, backed a 1914 law establishing the Federal Trade Commission to stop unfair trade practices.

## **SEC, Labor**

In response to the Great Depression, Democrat Franklin Roosevelt’s New Deal expanded the national government’s role in the economy, separating

commercial and investment banks, establishing the Securities and Exchange Commission, and passing the Fair Labor Standards Act. Roosevelt won re-election three times, more than any president in history.

Republicans haven't always stood in the way of expanded federal authority. Nixon created the Environmental Protection Agency after proudly pledging to Congress that he planned to propose "the most comprehensive and costly" environmental restoration effort in history.

Nixon also imposed price and wage controls in 1971 in response to rising worry about inflation as he delinked the U.S. dollar to the gold supply. The move was popular with voters and Nixon won a second term in a 1972 landslide. He resigned from office in 1974 due to the Watergate scandal.

Many of the significant regulatory laws enacted in the 1960s and 1970s, such as the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and new workplace and consumer protections, focused on public health and safety, Wesleyan's Eisner said.

### **Turning Point**

The rules they spawned were more complex and more costly than many New Deal federal interventions, and led to a sharper partisan divide over the regulation and the size of government, Novak said.

Today, "you can't find a Nixon in the Republican Party," said Duke's Balleisen, and Nixon would be to the "left of most Democrats" in 2012.

Reagan marked a turning point, declaring that government wasn't the solution to the nation's problems but the source. Democrat Bill Clinton oversaw the

repeal of the New Deal's distinctions between banking and Wall Street.

Crises, however, continue to sometimes override ideology in the push for new regulations.

“You have moments of retrenchment, but that doesn't seem to stop the regulations,” Novak said.

Republican President George H.W. Bush signed a broad amendment to the Clean Air Act that set new emissions standards designed to address acid rain. His son, Republican George W. Bush, signed the Sarbanes-Oxley law establishing new accounting rules for companies in response to Enron Corp.'s collapse.

“There's an old saying that Americans hate Congress but they love their congressmen,” Eisner said. “In the same way, people hate regulation, but end up loving their regulations.”

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