

Agenda

A CLOSER LOOK AT METRO BUSINESSES AND PROFESSIONALS

Biz Voice

Fraud cases likely to flow

Obama team's task force carries a broader reach for investigations.

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For the AJC

In a move reminiscent of President George W. Bush's creation of a Corporate Fraud Task Force in 2002, the Obama administration announced in November the creation of a Financial Fraud Enforcement Task Force. The 2002 task force is credited with more than 1,300 fraud convictions, including the Enron affair, backdating of license agreements and subsequent obstruction of justice at Computer Associates and accounting fraud at Adelphia.

So what's different about the newly formed task force?

This task force includes many more agencies – more than 20. As a result, it can investigate more types of fraud. Still, it's obviously far too early to tell the specific impacts on businesses and consumers.

However, under this Financial Fraud Enforcement Task Force, some businesses can expect very detailed, frequent and onerous requests for documentation pursuant to the task force's investigations. In fact, we may already be seeing the task force at work: The Securities and Exchange Commission is rumored to have sent more than 30 subpoenas to various hedge fund and brokerage firms. Arguably, the SEC has a long way to go before the general public forgives it for failing to uncover the Madoff fraud.



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But we can definitely expect to see the Commission "front and center" – and in a much more aggressive mode – than it may have been under the previous administration.

The government also appears determined to send a strong message to the public that the task force will aggressively pursue investigations in both corporate America and Wall Street. For instance, Attorney General Eric Holder has issued various statements intended to demonstrate that this initiative means business.

"We will be relentless in our investigation of corporate and financial wrongdoing, and will not hesitate to bring charges, where appropriate, for criminal misconduct on the part of businesses and business executives," he says.

In addition to Holder's strong

statements, Treasury Secretary Timothy Geithner is taking an equally aggressive stance: "Through the Financial Fraud Task Force, we are making clear that the Obama administration is going to act aggressively and proactively in a coordinated effort to combat financial fraud."

Given Holder and Geithner's stance, it would be realistic to expect the return of very public efforts like the much-criticized "perp walk," in which the accused is handcuffed and paraded to and from official proceedings. Such tactics provide public evidence of the task force in action.

Corporate America, as well as Wall Street, should also be prepared for more regulation. It is highly likely that the task force's efforts will trigger a wave of new regulations designed to combat all manner of fraud and abuse. Changes in regulation are already being planned.

For example, to restore confidence in the U.S. financial system, the Treasury Department, a task force member, plans to increase and improve regulatory oversight. Undoubtedly, a topic of conversation within Treasury and beyond will be regulation of hedge funds. The work of the task force will be sure to accelerate such regulatory increases significantly.

Depending on the success of the group, we could see the creation of a "Super Cop" or fraud czar with responsibility for overseeing all corporate fraud investigations. The role already exists in the intelligence com-

munity: The director of national intelligence – a role currently held by retired Navy Admiral Dennis Blair – is responsible for overseeing the National Intelligence Program, which includes the work of the Central Intelligence Agency, among others. That's a good model for what the role of a Fraud Super Cop may look like.

In any case, businesses should consider now how best to respond in the unlikely but not improbable event that their organizations end up in the cross hairs of the task force. Given the outcry over the Troubled Asset Relief Program and the public's general frustrations with the state of the economy, the government will be eager to show that this new Financial Fraud Enforcement Task Force is punishing those involved in fraud as well as returning trust to the financial markets via increased regulation and oversight.

The court of public opinion may also judge the accused with very little sympathy. With unemployment over 10 percent, people have plenty of time to watch the work of the task force play out in the media. Their anger at those who are even just accused of corporate fraud may know no bounds.

Given the resources being assigned to this task force, the scope of its mission and the knowledge gained from the previous task force, we can expect a number of headline-grabbing fraud investigations throughout the remainder of the current administration's term.