First 100 Days of Obama Administration Pave Road for More Regulation

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MINNEAPOLIS--(BUSINESS WIRE)-- The first 100 days of President Barack Obamaâ€™s administration have been marked by much pressure to address the financial crisis, help the U.S. economy, and establish regulatory reform. While substantial regulatory changes have already been made, lawmakers are in the process of debating additional legislation that would help protect consumers even more aggressively. Wolters Kluwer Financial Servicesâ€™ compliance experts agree that development alone has already changed the mood within the financial services industry.

â€œRegulators are feeling much more empowered than they were during the previous administration,â€ said **Edward Kramer, executive vice president for Regulatory Programs at Wolters Kluwer Financial Services.** â€œMore stringent regulatory exams, a rising number of enforcement actions and the growing number of financial institution closings during the first quarter of this year are evidence of that.â€

Kramer said he believes the mortgage reform bill Congress debated last week could be the beginning of major financial services regulatory reform. The bill would fundamentally change the mortgage lending market, placing tighter restrictions on non-prime mortgage lending and lender compensation. Perhaps more importantly, it would require lenders establish what the bill calls a â€œduty of careâ€ in proving borrowers could repay a loan or that refinancing gave them a net tangible benefit.

â€œThe proposed mortgage reform bill combined with numerous regulatory changes already scheduled to take effect this year could likely put financial institutions in a significant crunch,â€ said **Amy Downey, senior regulatory consultant at Wolters Kluwer Financial Services.** â€œThese changes are very different from those of previous years that required a simple update to a document or disclosure. Instead, they will require institutions to change the way they do business. Many institutions are just starting to figure this out and scrambling to adapt.â€

The securities industry has also seen a number of issues discussed during the first 100 days of the new presidential administration, including the potential regulation and registration of hedge funds, changes to credit rating agencies, and harmonizing rules between investment advisors and broker-dealers. Legislation concerning some of these issues has been introduced, and more will likely come.

â€œI think itâ€™s clear that we are going to see more regulation in the coming months, as well as the regulators working to flex their muscles and extend their influence,â€ said **David Thetford, securities compliance principal analyst at Wolters Kluwer Financial Services.** â€œThe Securities and Exchange Commission (SEC) has already highlighted a number of areas where it would like to see reform, and has indicated it would like to increase the size of its staff. Iâ€™m anticipating weâ€™ll also see similar activity from other regulators, including the Financial Industry Regulatory Authority (FINRA).â€

Thetford notes that this has created a level of suspense within the financial services industry, as it prepares for the growing pains associated with regulatory change, which will likely include adjusting and modifying compliance procedures and educating staff.

In addition to assessing their compliance programs in anticipation of regulatory changes, financial services firms are also evaluating the types of products they offer.

Kathy Donovan, senior compliance counsel for Insurance Compliance Solutions at Wolters Kluwer Financial Services, says during the last few months, there has been a growing interest related to products deemed more traditional, such as whole life and term life policies.

â€œWeâ€™re definitely seeing a shift in the insurance industry,â€ said Donovan. â€œInsurers are looking at products that are less market sensitive. Given that the SEC plans to regulate fixed indexed annuities as securities under Rule 151A, some insurers might put less focus on growth in that market and rework their offerings so they can minimize the chance that their products are identified as securities.â€

Jason Marx, vice president and general manager, Mortgage, at Wolters Kluwer Financial Services says mortgage companies continued to expand their Federal Housing Administration (FHA) lending programs at a fast pace to keep up with market demand for government-insured lending programs. He expects them to increase their activities in reaction to currently lower rates, refinance initiatives and loan modification programs throughout the rest of the year as they take advantage of the Treasuryâ€™s new Making Home Affordable Program.

â€œLenders are very interested in becoming involved with the program,â€ said Marx. â€œThey realize that by helping distressed borrowers refinance or modify their loans, they can assist those borrowers that have the intent and ability to make regular payments and stay in their home.â€

The auto finance market has also been affected by this shift as subprime loans have become much less prevalent.

â€œMany consumers and auto dealerships have found that most of the near-prime and subprime lenders have pulled out of that market niche,â€ said **Kevin Kopp, general manager of Indirect Lending at Wolters Kluwer Financial Services.** â€œThis has inhibited retail sales, leaving many auto dealerships feeling the pinch.â€

Kopp says the greater focus on consumer protection and industry regulation should make dealers pause and reflect on their own practices, and make sure their business is doing everything possible to manage risk.

Kevin Byrne, senior regulatory consultant at Wolters Kluwer Financial Services agreed, and said financial institutions will also need to make sure theyâ€™re doing all they can in the coming year to combat identity theft, money laundering and terrorist financing. He cited the record number of Suspicious Activity Reports (SARs) filed by institutions in 2008 as direct evidence that such financial crimes are on the rise.

â€œIn a down economy, instances of fraud committed out of desperation by consumers, as well as an institutionâ€™s own employees, often grow dramatically,â€ Byrne said. â€œWhen you combine that trend with the growing sophistication and globalization of todayâ€™s financial criminals, you create an environment ripe for an overall spike in fraudulent activity.â€

â€œManaging operational and compliance risks like fraud can no longer be viewed as a necessary evil,â€ added Downey. â€œIt has to be seen as a reality of doing business in todayâ€™s marketplace. Regulators and consumers were much more tolerant when times were good. But theyâ€™re not so much now that times arenâ€™t so good. Thatâ€™s not likely to change anytime soon.â€

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