Nobodyâ€™s Right if Everybodyâ€™s Wrong

John worries that Obama anti-lobbyist stance will deny expertise to financial crime pursuit

Going back to the music archives (where all good lyrics are, by the way), I thought about the recent Administration decisions regarding severely limiting private sector participation in government policy debates, and believe that Buffalo Springfield’s Stephen Stills had it right.

Administration ignores demonstrated benefits

There are valid concerns if government committees or advisory boards are populated only by lobbyists who only consider the potential impact on their industry or clients. However, in my experience, that is an over-generalization and, in actuality, rarely true.

The response from the White House to valid complaints regarding the decision to prevent lobbyists from sitting on government advisory boards tells me that there was no consultation with government officials who have benefited from outside expertise. (See the letter from Norm Eisen, special counsel to the President for ethics and government reform.)

For example, as an original member of the Bank Secrecy Act Advisory Group (BSAAG), I always valued the opportunity to work with law enforcement representatives, regulators, and policymakers on our mutual goals of attacking money-laundering and terrorist-financing trends and challenges both here and abroad.

Debate was ongoing, and sometimes heated, but our mutual commitment to improving detection and prevention was never in doubt.

Among many value additions, private sector participants in the advisory group recommended the creation of the SAR Activity Review; suggested and helped form subcommittees on a whole host of important topics, such as privacy; and provided insight to the government drafters of the BSA Examination Manual developed by the Federal Financial Institutions Examination Council.

How does this new position of the Obama Administration impact this tried-and-true system of private-public partnership?

Hopefully it will not.

But can we be sure?

New Financial Fraud Enforcement Task Force: a perfect example

On Nov. 17, Attorney General Eric Holder, Treasury Secretary Timothy Geithner, Housing and Urban Development (HUD) Secretary Shaun Donovan, and Securities and Exchange Commission (SEC) Chairwoman Mary Schapiro jointly announced that President Barack Obama had established by Executive Order an interagency Financial Fraud Enforcement Task Force “to strengthen efforts to combat financial crime.”

According to the announcement, the Department of Justice will lead the task force and the Department of Treasury, HUD, and the SEC will serve on the steering committee.

The task force is tapping participants from over 25 agencies and plans to “work with state and local partners to investigate and prosecute significant financial crimes; ensure just and effective punishment for those who perpetrate financial crimes; address discrimination in the lending and financial markets; and recover proceeds for victims.”

All of these are worthy goals.

But where is the outreach to outside experts in the financial sector that have worked their entire careers to pursue fraudsters and assist financial crime victims?

I fear the focus will not include those outside the industry that engage in financial crime. Attorney General Holder, at the press conference, made this point:

“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.” (For more, go to the Treasury website.)â€¨

Similar comments were made by Secretary Timothy Geithner and other government officials.

As I listened, I kept thinking:

“How can a task force dedicated to fraud be comprehensive, without seeking advice from the men and women in the industry who tackle these crimes every day?”

The answer—it cannot.

Don’t kill a critical national tool

Government advisory boards have been a valued tradition in the United States.

It is critical that there be diverse opinions (industry, consumer organizations, academia, and others).

But that representation should include experts, no matter what industry they represent or their status.

Can there be some limits—of course.

But remember:

Nobody’s Right if Everybody’s Wrong.

Please send me your thoughts and comments, or post them below.

About John Byrne, CAMS

Byrne leads Condor Consulting LLC, a Washington, D.C., area financial services consulting firm specializing in regulatory management, AML, privacy, and a vast array of financial institution compliance related issues. He has written extensively on AML issues for 25 years and has appeared on television and testified before many congressional committees on AML-related policy issues. Prior to the creation of his firm, John was the Global Regulatory Relations Executive at Bank of America. Previously, he worked for the American Bankers Association for 22 years and was responsible for ABA's lobbying, regulatory, and educational efforts on money laundering, and other compliance issues. He received the ABA's Distinguished Services Award and was also the first private sector recipient of the “Director's Medal for Exceptional Service” from the Treasury Department's Financial Crimes Enforcement Network (FinCEN). Byrne can be e-mailed at jbyrne@thecondorconsultingllc.com. His web page can be found at www.thecondorconsultingllc.com

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