

Justice Department Seeks Increased Funding for Fraud Prevention and Enforcement

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Financial, Mortgage and Healthcare Fraud Remain Key Priorities in FY 2011 Budget

Earlier this week, Attorney General Eric Holder announced that the President's FY 2011 budget request includes a staggering \$29.2B for the Justice Department, an increase over the actual FY 2010 budget appropriation of \$1.5B in funding and 2,880 positions.

Aside from counter-terrorism, one of the leading budget priorities for the Justice Department is substantially increased funding to prevent, investigate and prosecute a diverse array of economic crimes, including financial fraud, mortgage fraud, health care fraud, securities and commodities fraud, procurement and grant fraud, violations of the Foreign Corrupt Practices Act, and also fraud in connection with the receipt and use of federal stimulus funding. The FY 2011 budget request includes an additional \$234.6M to support these specific enforcement priorities, including 708 new positions within the Justice Department (criminal prosecutors, civil litigators and FBI agents).

Financial fraud, mortgage fraud and securities fraud remain key priorities for investigation and prosecution, as the Justice Department seeks to contribute to the federal government's broad financial recovery effort. The Justice Department reports that the FBI has seen an increase of more than 1,000 per cent in pending cases that involve financial fraud, mortgage fraud and securities fraud, and that it currently faces a backlog of almost 900 mortgage fraud cases that each involve more than \$1M in losses. In addition, the Justice Department reports that the number of criminal prosecutors available in U.S. Attorneys' Offices to investigate and prosecute financial fraud has not kept pace with the growing volume of cases. The new budget request would greatly increase both the resources and headcount that the Justice Department can dedicate to white collar crime.

The Justice Department has also observed that "[w]e are currently in the midst of the largest expenditure of government funds over the shortest period of time in the Nation's history," and that federal stimulus efforts, such as the American Recovery and Reinvestment Act, the Troubled Asset Relief Program ("TARP"), and the Term Asset-Backed Securities Loan Facility ("TALF"), have "create[d] an unprecedented target for fraud on the government." Therefore, the investigation and prosecution of any misuse of federal stimulus funding will represent an important new priority for the Justice Department going forward.

Finally, health care fraud has long been a major focus for the Justice Department, and FY 2011 promises to maintain that industry focus. Last year, Attorney General Holder and Secretary Kathleen Sebelius announced that the Justice Department and the Department of Health and Human Services ("HHS") had formed the Health Care Fraud Prevention and Enforcement Action Team. This year, HHS has requested an additional \$60.2M in the FY2011 budget to collaborate with the Justice Department in the investigation and litigation of health care fraud.

Given the President's FY 2011 budget request, and the Attorney General's public statements about the Justice Department's plans to pursue aggressively all forms of economic crime, companies and individuals in the financial sector, health care industry, and other regulated industries, as well as the recipients of federal stimulus funding through the American Recovery and Reinvestment Act, TARP and TALF, should expect the Justice Department to pursue many pending investigations, open yet more investigations and prosecute a wide range of fraud cases in the years ahead.

Certainly, the wave of federal criminal prosecutions stemming from the recent economic crisis has not yet ebbed. To the contrary, in connection with its own announcement regarding the FY 2011 budget request for the Justice Department, the White House has identified certain "high-priority performance goals." The goals include increasing the "white collar caseload by 5 per cent concerning mortgage fraud, health care fraud, and official corruption by FY2012" and taking additional steps to ensure that "90 per cent of cases [are]

favorably resolved.”

Attorneys in Foley Hoag’s [Business Crimes & Government Investigations Group](#) will continue to monitor developments concerning the Justice Department’s budget, priorities and enforcement activities.

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