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States on the Front Lines In Battle To Restore Investor Confidence

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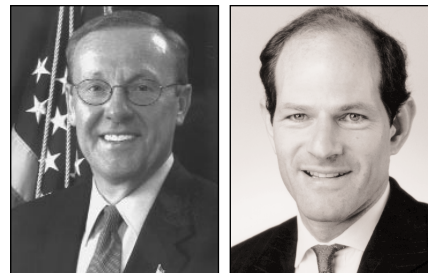
With the stock market sinking to five-year lows and congressional elections imminent, investors are turning to Washington to stem the rising tide of corporate malfeasance. But while there is widespread agreement that federal action is necessary to restore investor confidence, the key role played by state governments has often been overlooked.

The fact is, state and federal authorities have long worked in partnership, with clearly delineated responsibilities when it comes to regulating and taking action against corporate fraud. Federal efforts tend to focus mostly on establishing rules and prosecuting major, billion-dollar infractions, whereas states peruse a greater number of smaller cases and are uniquely responsive to the needs of Main Street investors.

But as state securities regulators have become more active in the wake of recent scandals, their efforts have drawn surprisingly hostile reaction by some in Congress and corporate America. Consequently, states are finding themselves in the unexpected position of defending aggressive actions against corporate fraud.

State Powers Questioned

The most high-profile state action this year has been a probe into conflicts of interest at Wall Street firms. On May 21, New York Attorney General Elliot Spitzer announced a \$100 million settlement with Merrill Lynch, following allegations that the company gave investors inaccurate information about the stocks of companies with whom Merrill did business. About half of the \$100 million is slated to go to New York; the rest will be distributed between other states and used



Attorneys General D. Michael Fisher of Pennsylvania (L) and Elliot Spitzer of New York (R) are among the state officials protecting victims of corporate fraud.

towards future regulatory efforts.

Soon after the announcement, Salomon Smith Barney announced it would voluntarily adopt the reforms to which Merrill consented in the settlement.

Attorneys general in New Jersey and Connecticut are among those participating in a task force to look into similar conflicts at other firms

“State action fills a vacuum created by federal inaction,” said Connecticut Attorney General Richard Blumenthal. “There is a threat to the public interest, which state law enforcement authorities, including attorneys general, are working hard to address.”

Detractors in Congress take issue with Blumenthal's assessment. U.S. Rep. Michael Oxley, chair of the House Financial Services Committee, slammed the settlement, arguing in a statement that attorneys general were meddling in areas beyond the scope of their duties.

“The dirty secret about the attorney general's Merrill Lynch settlement is that it does not help, and in fact hurts, investors,” said Oxley, who also questioned why the settle-

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Restoring Investor Confidence *(continued from page 1)*

which have been particularly hard hit by market losses.

State employee pension funds hold nearly \$1.5 trillion in retirement assets, invested on behalf of roughly 10 million people, according to the National Association of State Retirement Administrators. New Jersey's pension fund alone lost \$22 billion in the last two years.

Vermont State Treasurer Jim Douglas said his state's pension fund, which has performed above the national median, lost \$4.2 million in Enron stock. Now, the outside consultants who manage the fund are "going through their portfolios with a fine-tooth comb, making sure we're complying with all relevant requirements," Douglas said.

But state interests in solidifying markets are not limited to pension funds. In Connecticut, for example, an unusual

deal between Enron and a quasi-government agency, the Connecticut Resources Recovery Authority, led to a loss of \$220 million in public funds.

In Pennsylvania, Attorney General Mike Fisher has proposed legislation that would significantly increase the state criminal penalties for corporate officials who defraud the state's investors. Fisher also wants to include some instances of corporate fraud under the state's racketeering statutes.

NASAA is also urging states to help rebuild investor trust by improving investor education efforts, and providing more resources for enforcement.

"The market is built on trust," Borg said. "If you don't have trust built inside each state, you can forget a national market. We've got a crisis in confidence. This is no time to start disarming cops." ■

Re-Entry *(continued from page 10)*

Among its long list of assignments, Policy Council members will be reviewing standards proposed by the American Bar Association (ABA) regarding the civil consequences of having a criminal record, or what the ABA terms "collateral sanctions."

"Some collateral sanctions serve an important and legitimate public purpose when they are specifically warranted by an offender's conduct," said Margaret Colgate Love, chairperson of the ABA's task force on collateral sanctions "But many others raise new public safety concerns by frustrating returning offenders' efforts to support themselves and find a

place to live."

Among the goals of the ABA's proposed standards are allowing for more judicial discretion in the application of sanctions, increasing awareness of sanctions, and instituting a review process by which offenders can appeal the sanctions and, if appropriate, have them removed.

ABA representatives will brief the CSG/ERC Criminal Justice Board of Directors on these proposed standards at the ERC Annual Meeting in Buffalo. ■

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