

At Duane Morris, SOX Means Big Business

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Duane Morris LLP has attorneys on both sides of securities enforcement – those seeking to prevent action from various regulatory agencies, and those ready to defend if something sticky happens.

The firm is well aware that both situations are likely, considering the overwhelming requirements that Duane Morris' clients are grappling with after implementation of the 2002 Sarbanes-Oxley Act.

The firm advises its clients, in all stages of representation, that they can't spend too much time addressing trends, according to David J. Kaufman, partner at the firm's Chicago office who works on corporate securities and counseling.

"For the last several years the regulatory pendulum has been swinging toward more regulation. Clients are still hearing reverberations from the Sarbanes-Oxley and we're dealing with all those implications," Kaufman said.

Kaufman and his colleagues acknowledge that the new requirements generate a great deal of business, but that doesn't mean they're not sympathetic to the plight of their clients. In fact, they have been extremely successful steering them clear of potential violations even when the clients are smaller and have less funds to play with.

"It's unfortunate because they're forced to spend the money on expensive accounting requirements and sometimes they don't have it. These projects can run into the millions of dollars and they don't have ten extra people to throw into a project. But that's the price of admission for being a public company,"

Having led over \$8.0 billion in securities offerings, Kaufman strives to prevent his clients' actions from raising regulatory flags. Fortunately, if something goes wrong, Kaufman can turn to his colleagues in New York, who specialize in securities enforcement.

In New York City, the focus is on litigation for broker dealers, investigations by the National Association of Securities Dealers and the New York Stock Exchange, AAA arbitration and regulatory enforcement. While they deal heavily with broker dealers, they also focus on hedge funds, investment advisers, and individuals.

The key is arbitration, which represents about 80% of the practice's work, according to James A. Tricarico, partner and co-head of the firm's broker-dealer practice.

"We generally work with arbitration. But we all do federal and state court litigation as well," Tricarico said.

Duane Morris' securities practice group represents issuers, underwriters, selling shareholders, private equity firms and others in a wide variety of public and private securities transactions. The group also counsels corporations and their officers and directors in matters involving public disclosure and other aspects of ongoing compliance with the federal and state securities laws.

"The firm has a robust securities litigation practice that's not limited to broker dealer work. We represent a number of defendants in securities cases, including class actions," Tricarico said.

The firm has been advising clients on what they believe may be required to keep up with regulatory changes. Hiring a compliance director and implementing documentable procedures is just the beginning.

And ensuring clients are operating within the rules appears to be a success, given the cases the firm isn't able to talk about.

"The best accomplishments in a regulatory practice are the cases you can never talk about. What I can say is that we've represented big firms that haven't been charged with anything. That's satisfying work and we keep it up," Tricarico said.

The firm's clients come from a variety of geographic areas given Duane Morris's presence around the country. It is among the 100 largest law firms in the United States and boasts more than 550 attorneys. Its 17 U.S. offices also have a relationship with an international network of independent law firms to add an international flare.

"We have a very good footprint throughout the country. We're in every important financial center and we all rely on each other. I've tapped all those offices for assistance and there's always a great deal of cooperation," Tricarico said.

But the firm is nowhere close to settling on its current size. Kaufman and Tricarico constantly compare their firm to larger rivals in a way that shows confidence it can take them on in time.

"Duane Morris will grow this practice not only through an increase in clients, but by adding more talent," Tricarico said. "We've demonstrated over the years that our firm will grow in a studied way by attracting the best people and that's what we'll keep doing. There's a good culture here."