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## Attorney: State regs ramp up multistate probes

State-level officials are picking up federal regulatory slack

*Jason Bisnoff* Wednesday 10th Jan, 2018 5:04 PM ET

With federal regulators taking a less aggressive posture under the Trump administration, state regulators are looking to pick up the slack by ramping up use of multistate investigations and unfair and deceptive trade practices provisions, according to **Donald Lampe**, partner at **Morrison & Foerster**.

“The market is moving to more state oversight and less stringent oversight from the federal regulators. This was predicted when President Trump became president but the news is that it is playing out that way,” Lampe told *Compliance Reporter*. “What we have seen is an uptick in multistate investigations and renewed interest in multistate solutions, which have been out there for quite a number of years.”

Lampe identified consumer protections as an area of focus in these multistate investigations and predicted an uptick in 2018. “That is a result of the renewed energy of the attorneys general and they have an enormous amount of experience with these multistate investigations and they certainly have the ability and capacity to handle large investigations when they pool their resources in multistate investigations,” he said.

Compliance departments will have to prepare themselves to adapt to this shift in enforcement approach, Lampe added.

“The multistate investigations are often not based on black letter violations but brought on unfair and deceptive practices laws which are more difficult to defend than a violation based on black letter laws and regulations so there is a different feel working with AGs rather than banking agencies and securities regulators,” Lampe added. “The processes are similar in how investigations are undertaken but states will bring actions for black letter law but in

financial services many are based on unfair and deceptive practices jurisdiction that state AGs have.”

A particular challenge for compliance departments under this new paradigm could be simply keeping tracks on which regulators’ jurisdictions they fall within, an increasingly complex task in the internet age, he cautioned.

“Instead of a single federal regulation you have 50 different standards and rules to follow if you want to do business across all 50 states and with online access you are likely doing business in all 50 states,” Lampe said. “Non-bank entities doing business across multiple state lines, in terms of risk management, is challenging as laws may be different from state to state. From a risk management and compliance standpoint a situational awareness of how products are regulated across states lines is important.”