The New York Times
nytimes.com

May 30, 2007

Now, Spitzer Is Warming to Wall St.

By JENNY ANDERSON

As attorney general of New York, Eliot Spitzer made a name for himself as a tough cop willing to take on deep-pocketed industries like Wall Street and insurance. Now, as governor, he may be making life a little easier for them in an effort to keep financial services in New York competitive in the global market.

Yesterday, Mr. Spitzer signed an executive order creating the New York State Commission to Modernize the Regulation of Financial Services, a panel focused on streamlining regulation in an industry increasingly dominated by integrated financial service firms offering similar products and taking similar risks.

The financial services industry is the biggest revenue generator for the state, and Mr. Spitzer is sure to want to avoid any significant loss of market share as governor. To his critics, who assailed his tactics as attorney general as just the kind of activity that scares off business, the plan is a new direction for Mr. Spitzer.

The governor’s initiative follows studies — including one commissioned by Senator Charles E. Schumer, Democrat of New York, and Mayor Michael R. Bloomberg and conducted by the consulting firm McKinsey & Company — that argued that the United States and New York City were at risk of losing the lead as a global financial hub to London and other centers.

The reports cited the regulatory burden of the Sarbanes-Oxley Act of 2002, excessive litigation and overlapping regulators among other factors.

While those reports focused on the patchwork of federal and state regulation, Mr. Spitzer's panel is focused, at least initially, on trying to rationalize outdated state regulations.

Currently four departments are responsible for regulating financial services in New York: the insurance department, the department of state, the banking department and the attorney general's office.

The structure was created at a time when the industry was more fragmented. For decades, the Depression-era Glass-Steagall Act prevented financial service firms from participating in the securities business and that created separate regulatory regimes. But over the last decade, changes in the law and a wave of mergers have led different financial services businesses to converge.

"It no longer makes sense to regulate each of the separate areas as an independent business endeavor," Mr. Spitzer said at a news conference yesterday. "If we can come up with a structure that is going to be more coherent and makes us more competitive, that is critically important."

The New York State insurance superintendent, Eric R. Dinallo, will be chairman of the commission, whose members will come from industry, government and consumer groups, including lawyers with expertise in financial services. The plan to create the commission was reported yesterday by The Financial Times.

According to Mr. Dinallo, the group will produce a report at the end of June 2008, but will seek to put into effect certain regulatory or statutory changes before that, including potentially establishing a so-called principles-based framework for insurance regulation. Such a system could mirror the system used in Britain, where companies are expected to follow certain principles, like not defrauding customers, rather than a laundry list of rules.

Critics of principles-based regulation say it results in oversight that is too lax.

Mr. Dinallo disagreed. “I don’t think that principles-based regulation is a lesser form of consumer or investor protection because I think that it engages companies at a much higher management level,” he said. “You get less of an approach of looking for loopholes and more of an approach of doing the right thing.”

Barbara Roper, the director of investor protection at the Consumer Federation of America, one of the consumer groups that will be participating, was skeptical, but she said she was willing to see what the panel comes up with.

“I have a knee-jerk reaction against principles-based regulation because it is almost always used by people trying to minimize regulation,” she said. “But principles-based regulation applied correctly and backed by good enforcement can be a good thing.”

Members of the panel will be appointed by the governor. They include Lloyd C. Blankfein, chairman and chief executive of Goldman Sachs; Charles O. Prince III, chairman and chief executive of Citigroup; Stephen M. Cutler, a former director of enforcement at the Securities and Exchange Commission and now general counsel at JPMorgan Chase.

Also, Martin J. Sullivan, chief executive of the American International Group; Herbert M. Allison, chairman and chief executive of TIAA-CREF; Stephen Brobeck, executive director of the Consumer Federation of America; John W. Moscow, a partner at Baker Hostetler and the former head of white-collar crime in the Manhattan district attorney's office; Timothy F. Geithner, president of the Federal Reserve Bank of New York; and Mindy Bockstein, chairwoman and executive director of the New York State Consumer Protection Board.

Government officials include the superintendent of banking, the secretary of state and the executive deputy attorney general for economic justice.

Mr. Dinallo, who worked in the investor protection bureau during Mr. Spitzer's tenure as attorney general, said the effort to rationalize regulation did not contradict past actions prosecuting wrongdoing on Wall Street.

"There is a line between enforcement and day-in and day-out regulation," Mr. Dinallo said. "At the attorney general's office, we were not regulators, we were enforcement officials."

Danny Hakim contributed reporting.