

## BANKING & FINANCIAL INSTITUTIONS ALERT

2/18/15

### U.S. Attorney General Holder Gives Federal Prosecutors 90 Days to Hold Individuals Accountable for the Financial Crisis

In a public appearance at the National Press Club yesterday, U.S. Attorney General Eric Holder said that he has given federal prosecutors a 90-day deadline to evaluate whether they can bring civil or criminal cases against any individuals for their role in the 2008 financial crisis. Holder stated that federal prosecutors who previously brought charges against institutions for inappropriately marketing residential mortgage-backed securities would investigate individual employees for potential criminal or civil charges. This statement comes amid public criticism that the Justice Department has failed to hold financial executives accountable for the financial crisis. While the Justice Department has negotiated record-breaking civil penalties from banks and other financial companies, there has been a lack of either criminal or civil prosecutions of financial industry executives who contributed to the devastating financial crisis.

Holder is resigning from his position once the Senate confirms current U.S. Attorney for the Eastern District of New York Loretta Lynch to take over as Attorney General. Thus, any decisions on cases against individuals for their alleged roles in the financial crisis would be made by Lynch once she is confirmed.

The statute of limitations for a federal bank fraud case is 10 years. This means that the putative criminal conduct at financial institutions arising from the crisis of 2007-2009 is not time-barred until 2017 at the earliest. Although Holder has asked federal prosecutors to determine within 90 days whether criminal charges can be filed, the statute of limitations leaves plenty of time for federal agents and prosecutors to continue to investigate and bring charges. Banks need to assess and know the risks involved, including the risks associated with the acquisition of failed banks.

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