



People Moves

Former Federal Prosecutor and SEC Official Ferdose al-Taie Joins Akerman

Jul. 25, 2019

By Robin L. Barton, *Hedge Fund Law Report*

Akerman LLP has added partner Ferdose al-Taie – a former federal prosecutor at the DOJ and Senior Counsel at the SEC’s Division of Enforcement – to its litigation, white collar crime and government investigations practices. Splitting her time between the Dallas and Washington, D.C., offices, al-Taie represents investment advisers, hedge funds, private equity firms, startups and individuals, as well as publicly traded and privately held companies.

During her time with the SEC, al-Taie led investigations and prosecutions of federal securities law violations, including those with parallel criminal actions. Before joining the SEC, she served at the DOJ in various capacities, including as a Trial Attorney at the Antitrust Division in Washington, D.C.; a Special Assistant U.S. Attorney (AUSA) in Alexandria, Virginia (Criminal Division); and an AUSA in Phoenix, Arizona (Civil Division).

At Akerman, al-Taie’s white collar defense practice focuses on advising clients navigating all aspects of federal and state regulatory schemes, including before FINRA and other self-regulatory organizations. Her securities and compliance practice draws on her extensive experience with insider trading, cryptocurrencies, initial coin offerings (ICOs), virtual exchanges, anti-money laundering rules and Bank Secrecy Act issues.

See [“Thomson Reuters Survey Reveals Concerns About and Shortcomings With AML Compliance”](#) (Nov. 16, 2017).

The SEC’s approach to [cryptocurrencies](#) and ICOs is evolving, according to al-Taie. “If clients want to try something new in the cryptocurrency or ICO space, I counsel them to treat it like a security, which I believe is the safest course,” she said, noting that there is disagreement within the SEC as to these innovations. “This approach costs more, however, and the resulting disclosures look like private placement memos, which are not technically required but protect my clients from significant litigation risks.”

See [“Federal District Court in New York Rules That ICOs May Be Securities”](#) (Oct. 4, 2018).

Her SEC and DOJ experience has given al-Taie an appreciation for how officials within those agencies think, the internal pressures they may be under and the interplay between the agencies. To that end, she explained that she feels confident telling her clients under investigation, “We’re going to give the agency everything it needs. The official sitting across from us could be incredibly reasonable, but her reporting chain may see the investigation completely differently. So, we’re going to help the prosecutor make the case that we haven’t done anything wrong and make sure she has the data and information she needs to reach the right outcome.”

See [“What Remedies and Relief Can Fund Managers Expect in SEC Enforcement Actions?”](#) (Jan. 10, 2019).

If a client has committed a violation, al-Taie advises the client to come clean early, conduct an [internal investigation](#), present the results of that investigation and propose a fix to not only remedy the wrongdoing, but also prevent future violations. “Suppose you stole a cookie after your mother told you not to eat any,” she explained. “If you said, ‘Mom, I did eat a cookie, and I know you told me not to have one,’ your punishment would probably be very different than if you denied eating the cookie with crumbs all over your face and on the floor.”

“Similarly,” continued al-Taie, “if you put the regulators through six months or a year of an investigation or litigation only to arrive at the same spot, you can expect a much different penalty than if you had simply come clean earlier.”

Taking a practical approach to the law, al-Taie conducts compliance testing and designs compliance programs for clients. “Fund managers may think they have robust compliance programs. They may have paid a lot of money for those programs, so they expect them to work,” she noted. “Then, they find out through exams or enforcement actions that their compliance programs are not effective from a regulator’s perspective.”

See [“Challenges and Solutions in Managing Global Compliance Programs”](#) (Oct. 5, 2017).

Another compliance challenge fund managers face is ensuring that employees are actually following policies and procedures, added al-Taie. “A fund manager may train employees on its compliance program, but the real question is what are they doing when the manager isn’t looking,” she said. “For example, what do they say to a potential investor behind closed doors when they are trying to close the deal?”

See [“High- and Low-Tech Innovations for Fund Managers to Overcome Compliance Training’s Drawbacks”](#) (Feb. 1, 2018).

In addition, the business people may see compliance as “the office of ‘no,’” observed al-Taie. “I try to explain that, although that ‘no’ protects the firm, it is used sparingly.” One of the ways she likes to help gain support from the business side for a firm’s compliance department is to train the business people herself. “If I conduct compliance training with my background and ability to tell the business people scary – and true – prosecution stories, it gets a different reaction,” she remarked.

Stressing the importance of complete and clear disclosures, al-Taie recommended that fund managers draft their disclosures as if they were talking to a jury of individuals with no financial literacy. “Disclosures are incredibly important. They have also become longer and more complex. And, even if the language is clear, terms can mean different things to different people,” she commented.

See [“Proper Disclosure of Fee and Expense Allocations Is Crucial for Managers to Avoid SEC Enforcement Action”](#) (Sep. 1, 2016).

“If a fund manager provides complete disclosure and really explains it, then the manager will have repeat investors who invest in fund after fund because they know they’re being treated properly and that no one is trying to hide the ball or make them feel stupid,” continued al-Taie. “Honesty grows business because it builds trust – both between my clients and their investors, as well as between me and my clients.”

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