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Top cop: SEC may not delay civil cases

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By Jonathan Stempel

NEW YORK (Reuters) - The head of the Department of Justice's Criminal Division said the U.S. Securities and Exchange Commission might not have to delay civil enforcement actions so prosecutors can pursue related criminal cases.

Lanny Breuer, assistant attorney general for the criminal division, expects the Justice Department to develop a closer working relationship with SEC enforcement staff, saying the Obama administration "cares very deeply about comprehensive approaches" toward enforcement.

"Just because there's a civil action ... and a parallel criminal action, the days are gone where the civil action will necessarily be stayed until the criminal action is over," Breuer said after a speech at the Council of Foreign Relations in New York. He did not discuss specific cases.

A Justice Department spokeswoman said Breuer was referring to recent instances in which courts have elected not to put SEC civil cases on hold while criminal investigations are ongoing.

The timing of parallel enforcement activity has surfaced recently in the sprawling hedge fund insider trading case centered on the Galleon Group hedge fund.

It may also become an issue for the SEC's civil fraud lawsuit against Goldman Sachs Group Inc, which was filed two weeks before news surfaced of a Justice Department criminal investigation.

Prosecutors face a higher burden of proof and tougher rules on discovery than investigators pursuing civil cases.

The existence of a criminal probe could also cause individuals to assert their Fifth Amendment right against self-incrimination were the SEC to seek testimony.

The Justice Department sometimes uses deferred or non-prosecution agreements to resolve corporate crime cases.

Breuer said he has become "very close" with Robert Khuzami, who has been revamping the SEC's investigatory practices as head of that regulator's enforcement division.

Khuzami previously spent 11 years as a federal prosecutor in New York.

"I'm very attuned to what Rob and others are doing in changing the enforcement area, making it more robust," Breuer said.

As to the working relationship between Justice and the SEC, Breuer said: "I think you will continue to see that that relationship will blossom."

(Reporting by Jonathan Stempel; editing by Tim Dobbyn and Andre Grenon)

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