

SEC Annual Examination Priorities for RIAs

April 14, 2021

Last month, the SEC Division of Examinations (the "Division"; formerly the "Office of Compliance Inspections and Examinations") released its annual Examination Priorities for 2021. RIAs and their Chief Compliance Officers are advised to review the whole report, which can be found [here](#). Financial advisers registered with the SEC should expect 2021 examinations to focus on the following areas:

- **Standards of Conduct:** The Division will assess whether RIAs have fulfilled their fiduciary duty comprised of the duty of loyalty and duty of care to their client. RIAs should also expect continued examination of their Form CRS, including a focus on readability for clients and timely submission.
- **Fraud, Sales Practices, and Conflicts:** Examinations will focus on whether investors receive required disclosures (including on fees and expenses and conflicts of interest), and whether retail investors receive appropriate recommendations, with an emphasis on seniors, teachers, military personnel and individuals saving for retirement.
- **Information Security and Operational Resiliency:** The Division will review whether firms have appropriately identified and addressed information security risks, including risks related to cyber-attacks (e.g., endpoint security, data loss and remote access) and whether firms have taken appropriate measures to safeguard customer accounts and information. The Division will further review firms' business continuity and disaster recovery plans, especially with regard to risks associated with climate change.
- **Financial Technology (FinTech) and Innovation, Including Digital Assets:** RIAs can expect review on their safe use of new technologies and whether services provided to clients through such technologies are consistent with their representations. Examinations will further focus on the use of technology for regulatory compliance and its integration in the firm's overall compliance programs. With regard to digital assets, examinations will assess issues such as best interest of investors, safety of client funds and effectiveness of compliance programs.
- **Anti-Money Laundering (AML) Programs:** The Division will review compliance with AML obligations, including customer identification programs, Bank Secrecy Act filing obligations, due diligence on customers, and beneficial ownership requirements.
- **LIBOR Transition:** Firms should be preparing to transfer from LIBOR (the London Inter-bank Offered Rate), which is being discontinued, to an alternative reference rate if LIBOR is presently used by the firm.
- **RIA Compliance Programs:** The Division continues its focus on the effectiveness of RIA compliance programs, including whether programs are reasonably designed, implemented, maintained and funded. Priority will be on RIAs that have never, or not in recent years, been examined.
- **RIA to Private Funds:** The Division emphasized that it will focus on RIAs that manage private funds and will assess compliance risks, with a priority on liquidity and disclosures concerning investment risks and conflicts of interest.

We encourage you to consult with the authors of this e-alert or your Miller Canfield attorney if you have questions about the 2021 Examination Priorities.