

## Division of Examinations 2021 Focus Areas

---

The Division of Examinations plans to continue prioritizing traditional areas while improving their overall approach, building on past work and interactions with investors and those in the industry, according to the 2021 Exam Priorities, published March 3, 2021. The focus of the program continues to be risk based tied to its four basic pillars: 1) Compliance; 2) fraud prevention; 3) risk monitoring; and 4) informing policy. At the same time the Division will focus on emerging areas while considering environment, social and governance matters in view of market developments.

**Retail investors**, senior and individuals saving for retirement continues to be a key area of focus. The standards of conduct for the area are Regulation Best Interest – the new broker-dealer standard – Form CRS Relationship summary and the standard for Investment Advisers.

Critical in this area are the disclosure standards, including those regarding fees and expenses and conflicts of interests. There will be a focus on recommendations and advice provided to retail investors “with a particular emphasis on: (1) seniors . . . (2) teachers, (3) military personnel, and (4) individuals saving for retirement.” One area that will get prioritized is the use of turnkey asset management platforms. Another is situations where the RIA does not “aggregate certain accounts for purposes of calculating fee discounts in accord with disclosures. And certain investments will be targeted such as mutual funds, ETFs, municipal and other fixed income securities and the securities of microcap firms.”

**Information security** and operational resiliency is another area of focus for the Division. The impact of a breach or a successful cyber attack can be significant. The Division will thus review the following steps: 1) to safeguard customer accounts and prevent intrusions; 2) to oversee vendors and service providers; 3) to address malicious email activities; 4) to respond to incidents such as ransomware attacks; and 5) to manage operational risk as a result of dispersed employees in a worked-from-home environment.

### Related Capabilities

- Securities & Financial Services Litigation & Enforcement

Key is steps taken to focus on controls surrounding online and mobile applications.

Building on experience from prior years, the Division will examine business continuity and disaster recovery plans. The focus this year will shift, however, in view of the on-going and expanding risks associated with physical disasters such as storms and climate change.

**Fintech** is a rapidly evolving and innovative area. Here the Division will focus on whether the firm is complying with its representations to customers. At the same time the Division will evaluate if technology used for compliance – RegTech – is being properly employed.

**AML** is another critical area the Division will prioritize. In this area the programs maintained by broker-dealers and registered investment companies for compliance must assess and verify the identity of customers and beneficial owners of legal entity customers. They must also evaluate customer due diligence under the Due Diligence rule and, as appropriate, the firm must file Suspicious Activity Reports.

**LIBOR's** discontinuation may have a significant impact on regulated entities. Preparation for the transition away from LIBOR is “essential for minimizing any potential adverse effects associated with LIBOR discontinuation,” the release notes. Accordingly, the preparation and readiness of registrants will be assessed in connection with the examination.

**RIAs** are another key area for the Division. In this area the Division will focus on one or more core areas including the appropriateness of account selection, portfolio management practices, custody and safekeeping, best execution and similar matters. The Division will also review RIA compliance programs.

**Funds and ETFs**, the Division will key on governance practices “with a focus on disclosures to investors, valuations, filings with the Commission, personal trading activities and contracts and agreements. Liquidity and risk will also be considered as will funds that have not previously been inspected.”

Finally, since about 36% of RIAs also manage private finds, the Division will review these areas for matters such as preferential loans, portfolio valuations, the impact of fees, the adequacy of disclosures and similar matters. The Division will, in addition, focus on funds that have a higher concentration of structured products to determine if they are at a higher risk for holding non-performing loans. Overall, the goal of the Division is to “adapt innovate, work to ensure strong compliance and investor protection,” according to the release.