

CLIENT ALERT

SEC Division of Examinations Releases Its 2026 Examination Priorities

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On November 17, 2025, the Division of Examinations (the “Division”) of the U.S. Securities and Exchange Commission (the “SEC” or the “Commission”) released its 2026 examination priorities (the “Priorities”), the first issued under Chairman Paul Atkins.¹ The introductory message from the Division’s leadership team acknowledges that the Commission must reassess how best to deploy its resources to meet growing demands and evolving risks. The changes in the Priorities compared to the 2025 SEC examination priorities (the “2025 Priorities”) seem to reflect such a reassessment.²

The Priorities discuss specific examination areas relating to investment advisers, investment companies, broker-dealers, and other market participants, as well as cross-participant risk areas of information security and operational resiliency, emerging financial technology, regulation systems compliance and integrity (“SCI”), and anti-money laundering (“AML”). Several examination areas are consistent with the 2025 Priorities, such as focusing on

¹ 2026 Examination Priorities, Division of Examinations (Nov. 17, 2025), available [here](#).

² SEC Division of Examinations Releases Its 2025 Examination Priorities (Nov. 11, 2024), available [here](#).

protecting retail investors, examining recently registered or never-before-examined entities, and ensuring broker-dealers' compliance with Regulation Best Interest ("Reg BI"). Focusing on investment advisers' fiduciary duties and complex investments is also consistent with prior years, while specific references to crypto assets, which was a focus of the 2025 Priorities, are not included in the Priorities. The Division will continue to examine compliance with Regulation S-ID and also will examine for compliance with the newly adopted amendments to Regulation S-P and the Names Rule.

A. Investment Advisers

The Priorities focus on investment advisers' (1) adherence to fiduciary standards of conduct, (2) effectiveness of advisers' compliance programs, and (3) never-examined advisers and recently registered advisers.

1. Adherence to Fiduciary Standards of Conduct

The Division will focus on advisers' adherence to fiduciary standards of conduct, particularly advice to retail investors, including whether advice and disclosures are consistent with advisers' fiduciary obligations, such as: (1) the impact of financial conflicts of interest on providing impartial advice; (2) consideration of factors associated with advice, such as cost, the investment product's or strategy's investment objectives, characteristics (including any special or unusual features), liquidity, risks and potential benefits, volatility, likely performance in a variety of market and economic conditions, time horizon, and cost of exit; and (3) advisers seeking best execution with the goal of maximizing value for their clients under the particular circumstances occurring at the time of the transaction.

In addition, the Division will focus on the following advisory services:

- recommendations of alternative investments, complex products, and products with higher investment costs; and
- recommendations for consistency of product disclosures with the clients' investment objectives, risk tolerance, and financial/personal backgrounds, particularly emphasizing (1) recommendations to older investors and retirement savers, and recommendations of products that may be particularly sensitive to market volatility; and (2) recommendations by (a) advisers to private funds that are also advising separately managed accounts and/or newly registered funds (e.g., favoritism in investment allocations and interfund transfers), (b) advisers to newly launched private funds, and (c) advisers that have not previously advised private funds (including reviews for regulatory awareness, liquidity, valuation, fees, disclosures, and differential treatment of investors, including use of side letters).

The Division also will focus on particular types of advisers and advisory services or business practices that may create additional risks and potential or actual conflicts, including advisers using third parties to access clients' accounts, where controls may be insufficient to protect client assets and data, and advisers that have merged or

consolidated with, or been acquired by, existing advisory practices, which may result in operational and compliance complexities or new conflicts of interest.

2. Effectiveness of Advisers' Compliance Programs

The effectiveness of an adviser's compliance program is another continued area of focus. The Division will review core areas of compliance, including marketing, valuation, trading, portfolio management, disclosure and filings, custody, annual reviews of the effectiveness of their compliance programs, and adherence to fiduciary principles. The Division will focus on whether advisers' compliance policies and procedures are reasonably designed to identify and address conflicts of interest in light of each firm's operations and to prevent advisers from placing their own interests ahead of their clients' interests, including whether they are implemented and enforced, as well as whether disclosures adequately address fee-related conflicts, particularly conflicts that arise from account and product compensation structures.

The Division also will focus on advisers with activist engagement practices (including assessing whether they are making accurate and timely filings on Schedules 13D and 13G; Form 13F; Forms 3, 4, and 5; and Form N-PX), those with changes to business models, and those new to advising particular types of assets, clients, or services.

3. Never-Examined Advisers and Recently Registered Advisers

Consistent with previous years, the Division will prioritize examinations of advisers that have never been examined before, with particular emphasis on advisers that have recently registered.

B. Investment Companies

The Division continues to prioritize examinations of registered investment companies ("RICs" or funds), including mutual funds and ETFs, due to their importance to retail investors, particularly those saving for retirement. Examinations of RICs will include assessments of their compliance programs, disclosures, filings (such as summary prospectuses), and governance practices, including fund fees and expenses (including any associated waivers and reimbursements), and portfolio management practices and disclosures for consistency with statements about investment strategies or approaches, fund filings and marketing materials, and the amended Names Rule (which was not included in the 2025 Priorities). The Division also identified additional areas of interest not included in the 2025 Priorities, including:

- RICs that participate in mergers or similar transactions, including any related operational and compliance challenges;
- RICs that use complex strategies or have significant holdings of less-liquid or illiquid investments (e.g., closed-end funds) and any associated issues regarding valuations and conflicts of interest; and
- RICs with novel strategies or investments, including funds with leverage vulnerabilities.

These priorities reflect Chairman Paul Atkins's focus on providing additional retail access to private investments, which can be accomplished by RICs investing in private funds and other less-liquid investments.

As with adviser examinations, the Division will continue to prioritize assessing never-before-examined RICs, with particular emphasis on recently registered RICs.

C. Broker-Dealers

1. Broker-Dealer Financial Responsibility Rules

The Division will continue to examine broker-dealer compliance with the net capital rule, the customer protection rule, and related internal processes, procedures, and controls, including the timeliness of financial notifications and other required filings, firms' operational resiliency programs (including supervision of third-party/vendor-provided services that contribute to the records used to prepare financial reporting information), change management, credit, market, and liquidity risk management controls to determine whether firms have sufficient liquidity to manage stress events, and cash sweep programs and prime brokerage activities, including issues of concentration, liquidity, and counterparty credit risks.

2. Broker-Dealer Trading-Related Practices and Services

Reviews will continue to focus on broker-dealer equity and fixed income trading practices, including those associated with extended hours trading, municipal securities, routing and execution of orders, best execution, the pricing and valuation of illiquid instruments, and disclosures regarding order routing and order execution information. The focus on extended hours trading is particularly noteworthy given desires to allow for 24-hour trading.

With respect to Regulation SHO, the Division will review whether broker-dealers are appropriately relying on the bona fide market making exception, including whether quoting activity is away from the inside bid/offer. In a change from last year, the Division now emphasizes examining alternative trading systems, including a focus on their compliance with the requirements to have written safeguards to protect subscriber confidential information under Rule 301(b)(1) of Regulation ATS, alignment with their descriptions in the Form ATS-N, disclosures, and risk controls. We note that the staff of the SEC's Division of Trading and Markets emphasizes protection of subscriber confidential information in the ATS application process.

3. Retail Sales Practice, Including Compliance with Regulation Best Interest

Consistent with prior years, the Division will continue to examine broker-dealer sales practices, particularly compliance with Reg BI, including (1) recommendations of products and investment strategies (including account and rollover recommendations); (2) conflict identification and mitigation practices, particularly with respect to recommendations of accounts, rollovers, and recommendations involving limited product menus; (3) processes for reviewing reasonably available alternatives; and (4) processes for satisfying the Care Obligation, including consideration of particular factors in a customer's investment profile and the product and account type characteristics considered.

Examinations will focus on products that are complex or tax advantaged, such as variable and registered index-linked annuities; ETFs that invest in illiquid assets such as private equity or private credit; municipal securities, including 529 Plans; private placements; structured products; alternative investments; products that have complex fee structures or return calculations; products based on exotic benchmarks; and products that are illiquid or represent a growth area for retail investment. Examinations also may focus on recommendations that move an investment to a substantially similar product, that are related to opening different account types (such as option, margin, and self-directed IRA accounts), or that are made to older investors or those saving for retirement or college.

The content of a broker-dealer's relationship summary (Form CRS) will be reviewed, including how it describes: (1) the relationships and services it offers to retail investors; (2) the fees and costs it charges; (3) its conflicts of interest; and (4) the disciplinary history of the firm and its financial professionals.

D. Dual Registrants

The Division also will focus on dual registrants and assess their processes for identifying, mitigating, and eliminating conflicts of interest where they receive compensation or other financial incentives that may create conflicts of interest that must be addressed. Additionally, examinations may assess account allocation practices (including reviewing allocation of investments where an investor has more than one type of account) and account selection practices (which will differ depending on whether it is a brokerage or advisory account, including when rolling over employer plans to an IRA or transferring an existing brokerage account to an advisory account, as well as recommendations to open wrap fee accounts). This seems to continue the staff's view that a dual registrant has obligations to determine whether it is more appropriate to recommend a customer purchase a product through a brokerage or advisory account, even in the absence of SEC rules specifically imposing such an obligation.

E. Self-Regulatory Organizations

As in prior years, the Division will continue its oversight of self-regulatory organizations, including national securities exchanges, FINRA, and the MSRB.

F. Clearing Agencies

Under Title VIII of the Dodd-Frank Act, the Commission must conduct at least one examination annually of each clearing agency designated as systemically important. These examinations will focus on clearing agencies' core risks, processes, and controls and cover the specific areas required by statute, including the nature of clearing agencies' operations and assessment of financial and operational risk. The Division will conduct risk-based examinations of other registered clearing agencies that have not been designated by statute as systemically important.

Consistent with prior years, the Division also will examine security-based swap data repositories and entities operating pursuant to a Commission order exempting them from the clearing agency registration requirement under Section 17A(b)(1) of the Exchange Act.

G. Other Market Participants

1. Municipal Advisors

Consistent with prior years' examinations, the Division will continue to examine whether municipal advisors have met their fiduciary duty to municipal entity clients, and have complied with MSRB Rule G-42 (which establishes the core standards of conduct and duties applicable to non-solicitor municipal advisors), and made required filings with the Commission and met applicable professional qualification, registration, recordkeeping, and supervision requirements.

2. Transfer Agents

The Division will continue to examine transfer agents' processing of items and transfers, recordkeeping and record retention, safeguarding of funds and securities, filings with the Commission, and the use of emerging technology in the performance of their transfer agent functions. In a change from the 2025 Priorities, the Division will examine, after the compliance date, transfer agents' compliance with the 2024 amendments to Regulation S-P, which includes the safeguards rule, the disposal rule, and the requirement to establish incident response programs.

3. Security-Based Swap Dealers ("SBSDs")

The Division will continue its focus on examining SBSDs' risk management practices, their compliance with obligations of SBSDs under Regulation SBSR to accurately report security-based swap transactions to security-based swap data repositories, capital, margin, and segregation requirements, and whether SBSDs have taken corrective measures to address issues identified in prior examinations.

4. Security-Based Swap Execution Facilities ("SBSEFs")

Examinations of registered SBSEFs will be a new examination priority for the Division. Reviews will focus on the SBSEFs' rules and related internal policies and procedures addressing trade monitoring, trade processing, and participation, as well as the programs of risk analysis and oversight that SBSEFs have established to identify and minimize sources of operational risk.³

H. Risk Areas Impacting Various Market Participants

1. Information Security and Operational Resiliency

a. Cybersecurity

The Division will continue to examine registrants' procedures and practices to assess whether they are reasonably managing information security and operational risks.

³ The Division also will examine funding portals and compliance with Regulation Systems Compliance and Integrity (SCI).

In particular, the Division will assess firms' policies and procedures related to governance practices, data loss prevention, access controls, account management, response and recovery to cyber incidents. New this year is a focus on mitigation of risks associated with artificial intelligence and polymorphic malware attacks, including how firms are operationalizing information from threat intelligence sources.

b. Regulation S-ID and Regulation S-P

Compliance with Regulations S-ID and S-P will continue to be assessed, with focus on examining firms' policies and procedures, internal controls, oversight of third-party vendors, and governance practices. In particular, the Division will assess the reasonableness of firms' policies and procedures, including whether they are reasonably designed to identify and detect red flags, especially during customer account takeovers and fraudulent transfers, and whether the firm trains personnel in identity theft prevention.

In May 2024, the Commission amended Regulation S-P. After the applicable compliance dates, the Division will examine whether firms have developed, implemented, and maintained policies and procedures in accordance with the rule's new provisions that address administrative, technical, and physical safeguards for the protection of customer information.

2. Emerging Financial Technology

As with the 2025 Priorities, the Division will focus on examining firms that engage in activities such as automated investment advisory services, recommendations, and related tools and methods, including whether: (1) representations are fair and accurate; (2) the operations and controls in place are consistent with disclosures made to investors; (3) algorithms lead to advice or recommendations consistent with investors' investment profiles or stated strategies; and (4) controls to confirm any advice or recommendations resulting from automated tools are consistent with regulatory obligations to investors, including retail and older investors.

Also consistent with the 2025 Priorities, the Division will focus on recent advancements in AI and will assess the accuracy of registrant representations regarding their AI capabilities. Specifically, reviews will consider whether firms have implemented adequate policies and procedures to monitor and/or supervise their use of AI technologies, including for tasks related to fraud prevention and detection, back-office operations, anti-money laundering (AML), and trading functions, as applicable. Reviews also will consider firms' integration of regulatory technology to automate internal processes and optimize efficiencies.

3. Anti-Money Laundering

Under the Bank Secrecy Act (BSA), certain financial institutions, including broker-dealers and certain RICs, are required to establish AML programs that are reasonably designed to prevent these financial institutions from being used for money laundering or the financing of terrorist activities and to achieve and monitor compliance with applicable BSA requirements. These programs should be tailored to a firm's location, size, and activities, including the customers they serve, the types of products and services offered, and how those products and services are offered.

Consistent with the 2025 Priorities, the Division will continue to focus on examining whether broker-dealers and certain RICs are: (1) appropriately tailoring and updating their AML program to their business model and associated AML risks, including accounting for risks associated with omnibus accounts maintained for foreign financial institutions; (2) adequately conducting independent testing; (3) establishing a customer identification program, including for beneficial owners of legal entity customers; and (4) meeting their Suspicious Activity Report filing obligations. The Division also will review policies and procedures for the oversight of applicable financial intermediaries and whether broker-dealers, advisers, and RICs are monitoring the Department of Treasury's Office of Foreign Assets Control sanctions and ensuring compliance with such sanctions. Although the Treasury Department adopted AML rules for investment advisers on August 28, 2024, the compliance date has been extended by two years to January 1, 2028, and therefore, compliance for investment advisers with the adopted AML rules is not a focus of the Priorities.

I. Conclusion

The Priorities reflect the Division's refined focus on the investment adviser fiduciary standards of conduct and registrants' information security and operational resiliency, including their use of emerging financial technology. The Priorities also reflect a continued focus on protecting retail investors, broker-dealers' obligations under Reg BI, and ensuring compliance by recently registered advisers, funds, and investment companies. Market participants should evaluate their business practices and update their compliance policies and procedures to align with the Division's identified areas of focus under Chairman Atkins, particularly as regulatory expectations evolve alongside emerging technologies, shifting market conditions, and geopolitical concerns.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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