



Regulatory Alert

Financial Services Regulatory Insight Center



February 2018

2018 Examination Priorities for SEC and FINRA

Key points

- The SEC recently [released](#) its national examination priorities for 2018. The examination priorities focus on five themes: 1) retail investors, 2) critical market infrastructures, 3) cybersecurity, 4) anti-money laundering programs, and 5) FINRA and MSRB.
- FINRA's 2018 Regulatory and Examination Priorities, [released](#) in January 2018, focus on many of the same areas identified by the SEC but also bring forth additional priorities such as business continuity planning and technology governance. FINRA encourages firms to refer to its "first-ever" Examination Findings Report, [released](#) in December 2017, for additional insights into both concerns and effective practices relevant to some of the priority areas, including cybersecurity and anti-money laundering programs.

Summary

The Securities and Exchange Commission's (SEC) examination priorities are organized around five themes:

1. Matters of importance to retail investors, including
 - Protections for seniors, such as the suitability of products and services directed toward seniors, and the ability of firms to identify financial exploitation of seniors
 - Protections for retirement savers, focusing on investment recommendations, sales of variable insurance products, and sales and management of target date funds
 - Disclosures regarding conflicts of interest as well as disclosures of fees, expenses, and other charges to be paid by the investor
 - (and whether the fees and expenses paid are consistent with the disclosures)
- Investment advice offered through automated or digital platforms, or "robo-advisers"
- Cryptocurrencies and initial coin offerings, including investor protections and disclosures related to the risks of investment losses, liquidity, price volatility, and potential fraud, as well as registrants' compliance risks associated with adequate controls and safeguards to protect these assets from theft or misappropriation
- Mutual funds and exchange traded funds that have experienced poor performance, liquidity issues, or limited secondary market activity and may be difficult to value.



2. Compliance and risks in critical market infrastructure, including clearing agencies, national securities exchanges, transfer agents (especially those that serve as paying agents or service microcap or crowdfunding issuers), and other entities subject to Regulation SCI (Systems Compliance and Integrity), which requires they “establish, maintain, and enforce policies and procedures for their systems’ capacity, integrity, resiliency, availability, and security”
3. Cybersecurity issues, including governance and risk assessments, access rights and controls, data loss prevention, vendor management, training, and incident response
4. Anti-money laundering program obligations, including compliance with customer due diligence requirements and the filing of suspicious activity reports
5. Select operational and regulatory programs of the Financial Industry Regulatory Authority (FINRA) and the Municipal Securities Rulemaking Board (MSRB).

Among its examination priorities, FINRA similarly highlights:

- Protections for retail investors, including sales practices, suitability, senior investors, high-risk firms and brokers, and custodial arrangements
- Certain products or services, such as cryptocurrencies and initial coin offerings, microcap stocks, outside business activities

and private securities transactions, qualified plan rollovers, and retirement planning

- Issues related to market integrity, such as best execution, market access, transaction reporting for Treasury securities, and alternative trading system surveillance
- Cybersecurity, including preparedness, technical defenses and resilience measures
- Anti-money laundering compliance programs, including detecting and reporting suspicious transactions, monitoring, and independent testing.

The SEC and FINRA each add the caveat that the identified priorities are “not exhaustive” and may change based on market and regulatory developments. As the SEC states, “Rapid institutional and technological change in the market landscape demands a responsive approach.”

Some additional items to consider when preparing for 2018 examinations:

- The SEC has [announced](#) a new Share Class Selection Disclosure Initiative that will be available to certain investment advisers through June 12, 2018.
- FINRA’s new Rule 2165, Financial Exploitation of Specific Adults, and amended Rule 4512, Customer Account Information, became effective February 5, 2018.
- Compliance with the Financial Crimes Enforcement Network’s (FinCEN) Customer Due Diligence (CDD) rule will be required beginning May 11, 2018.

Questions?

If you have questions or are interested in KPMG services related to SEC or FINRA supervisory examinations, please contact [Tracy Whille](#) or [Stefan Cooper](#) in our Operations and Compliance Risk practice.

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