

# Client Alert

Current Issues Relevant to Our Clients

January 29, 2015

## SEC Examination Priorities for 2015

The Securities and Exchange Commission's ("SEC") Office of Compliance Inspections and Examinations ("OCIE") recently issued its 2015 Regulatory and Examinations Priorities Letter. A copy of the letter is available [here](#). While its letter does not provide an exhaustive list of examination focuses, OCIE's letter focuses on issues involving investment advisers, broker-dealers and transfer agents with a particular emphasis on protecting retail investors and investors saving for retirement, assessing market-wide risks and using data analytics to identify signals of potential illegal activity. Firms should review their policies, procedures and business activities in light of OCIE's stated 2015 priorities. Firms should also review the Financial Industry Regulatory Authority, Inc.'s ("FINRA") 2015 Regulatory and Examinations Priorities Letter which is described in our client alert available [here](#). FINRA and OCIE will be focusing on many of the same issues in 2015.

### Retail Investor Protection

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OCIE recognizes trends towards increased complexity, new products and increased access by retail investors to products formerly characterized as alternative or institutional. In light of these trends OCIE has indicated that it will focus on the following areas among other in conducting its 2015 examinations:

- **Fee selection and reverse churning:** Given the increasing number of dually registered investment advisers/broker-dealers and variety of fee structures, OCIE will focus on recommendations of account types and whether they are in the best interest of clients including looking at fees charged, services provided and disclosures about relationships.
- **Sales practices:** OCIE will assess whether improper or misleading practices are used when moving employer-sponsored defined contribution plans into other investments and accounts with a particular focus on risks and fees.
- **Suitability:** OCIE will particularly focus on suitability, due diligence and disclosure with respect to complex, structured and high yield securities.
- **Branch offices:** OCIE will focus on supervision of registered representatives and adviser representatives in branch offices.
- **"Alternative investment companies":** OCIE will continue to assess funds offering alternative investments and strategies with a particular focus on leverage, liquidity, valuation, internal controls and the manner in which funds are marketed to investors.

- **Fixed income investment companies:** Given the current interest rate environment, OCIE will review whether mutual funds with significant exposure to interest rate increases have implemented compliance policies and procedures, trading controls and adequate disclosures to ensure that their investments and liquidity profiles are consistent with those disclosures.

### Assessing Market-Wide Risks

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In 2015 OCIE will focus on:

- Monitoring the largest broker-dealers and asset managers;
- Clearing agency compliance with Dodd-Frank Wall Street Reform and Consumer Protection Act requirements and other rules and requirements;
- Cyber security compliance and controls in place for broker-dealers, investment advisers and transfer agents; and
- Order routing conflicts with firms' best execution duties.

### Use of Data Analytics

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OCIE intends to continue to improve its data analytic capabilities and will focus examination efforts on:

- Recidivist representatives and the firms that employ them;
- Operations of broker-dealers and transfer agents that may be engaged in or aiding and abetting

pump-and-dump schemes or other market manipulation;

- Excessive trading activities; and
- Anti-money laundering programs of clearing and introducing broker-dealers with emphasis on firms providing customers direct access to the markets from higher-risk jurisdictions and firms that have not filed or filed incomplete or late suspicious activity reports.

## Other Initiatives

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OCIE will also focus examination efforts on:

- Newly registered municipal advisors;
- Proxy advisory services firms along with investment advisers' compliance with fiduciary duties in voting proxies;
- Never before examined registered investment company complexes;
- Advisers to private equity funds in connection with fees and expenses; and
- Transfer agents with a focus on those involved with microcap and private securities offerings.

## Conclusion

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Firms should consider the SEC examination priorities along with recently released FINRA 2015 Regulatory and Examination Priorities Letter as they conduct their annual reviews of policies, procedures and business activities. Where firms observe deficiencies in their own practices, adjustments should be made before they find themselves the subject of a FINRA or SEC investigation, examination or enforcement action.

## For More Information

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