

Investment Management Alert

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Office of Compliance Inspections and Examinations Announces 2016 Priorities

On January 11, 2016, the Securities and Exchange Commission (the “SEC”) identified selected 2016 examination priorities of the Office of Compliance Inspections and Examinations (“OCIE”).¹ The priorities reflect certain practices and products that the OCIE perceives to present potentially heightened risk to investors and/or the integrity of the U.S. capital markets. This year’s priorities are organized around three thematic areas: (i) examining matters of importance to retail investors, including investors saving for retirement; (ii) assessing issues related to market-wide risks; and (iii) using the OCIE’s evolving ability to analyze data to identify and examine registrants that may be engaged in illegal activity.

Assessing Market-Wide Risks

The OCIE will examine a number of areas for structural market risks and trends that may involve investment advisers, including:

- **Cybersecurity.** The OCIE will continue its 2015 initiative on cybersecurity compliance and controls, which will include testing and assessing firms’ implementation of procedures and controls.
- **Liquidity Controls.** The OCIE will examine advisers to mutual funds, ETFs and private funds that have exposure to potentially illiquid fixed income securities.

Using Data Analytics to Identify Signals of Potential Illegal Activity

The OCIE will use data from examinations and regulatory filings to identify registrants that appear to have an elevated risk profile. Certain initiatives will leverage the OCIE’s capabilities in the area of data analytics, such as:

- **Recidivist Representatives and Their Employers.** The OCIE will continue to use its analytic capabilities to identify individuals with a track record of misconduct and examine the firms that employ them.

Other Initiatives

The OCIE intends to allocate examination resources to the following additional priorities:

- **Private Placements.** The OCIE will review private placements, including offerings involving Regulation D of the Securities Act of 1933 or the Immigrant Investor

¹ OCIE, “[Examination Priorities for 2016](#)” (January 11, 2016).

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Program, (“EB-5 Program”) to evaluate whether legal requirements are being met in the areas of due diligence, disclosure and suitability.

- **Never-Before-Examined Investment Advisers and Investment Companies.** The OCIE will continue conducting focused, risk-based examinations of selected registered investment advisers and investment company complexes that it has not yet examined.
- **Private Fund Advisers.** The OCIE will examine private fund advisers, maintaining a focus on fees and expenses and evaluating, among other things, the controls and disclosures

associated with side-by-side management of performance-based and purely asset-based fee accounts.

Conclusion

The list of examination priorities released by the OCIE is not exhaustive and the OCIE expects to conduct additional examinations based on risks, issues and policy matters that arise from market developments, new information from current examinations and other sources, such as tips, complaints, referrals and coordination with other regulators.