

Insights

FROM “GOTCHA” TO GUIDANCE: SEC’S 2026 EXAMINATION PRIORITIES EMPHASIZE COOPERATION

Dec 03, 2025

On November 17, 2025, the Division of Examinations (the “Division”) of the U.S. Securities and Exchange Commission (the “SEC”) published its annual [2026 Examination Priorities](#) (the “Exam Priorities”). The Exam Priorities are largely consistent with those of prior years, despite the philosophical differences between SEC Chairman Paul Atkins and his predecessor. The release of the Exam Priorities emphasizes the cooperative aspects of the examination process going forward. As Chairman Atkins stated:

"Examinations are an important component to accomplishing the agency’s mission, but they should not be a 'gotcha' exercise...[The] examination priorities should enable firms to prepare to have a constructive dialogue with SEC examiners and provide transparency into the priorities of the agency’s most public-facing division."^[1]

Similarly, the message from leadership of the Division prefacing the Exam Priorities, noted its “efforts will support registrants, strengthen their ability to meet regulatory obligations and comply with federal securities laws.”

Below is a discussion of the Exam Priorities for investment advisers, registered investment companies, broker-dealers, self-regulatory organizations, and other market participants.

Investment Advisers

The Division will continue to focus on advisers’ adherence to their duties of care and loyalty, particularly with respect to retail investors. More specifically, the Division will review whether investment advice and disclosures are consistent with adviser’s fiduciary duties, including (1) the impact of any financial conflicts of interest; (2) consideration of factors related to investment advice, “such as generally the cost, 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) best execution.

In addition, the Division will focus on certain investment products, including private credit funds, private funds with extended lock-ups and other alternative investments; complex exchange-traded funds and other complex investments; and high-cost products. The Division will also pay particular attention to whether investment recommendations are consistent with disclosures and investor objectives, risk tolerances and backgrounds, and will emphasize (1) recommendations for retirement; (2) advisers to private funds that also advise separate accounts or registered funds; (3) advisers to new private funds; (4) recommendations of products that are especially sensitive to market volatility, and (5) advisers that are new to private funds. Furthermore, the Division will focus on advisers that involve additional risks and potential or actual conflicts – for example, (1) advisers dually registered as broker-dealers; (2) advisers that use third-parties to access client accounts; and (3) advisers that have been involved in a recent merger or acquisition.

As in prior years, the Division will continue to assess the effectiveness of advisers' compliance programs and will continue to prioritize examining recently registered advisers and advisers that have not previously been examined.

Investment Companies

In view of the importance of registered investment funds—e.g., mutual funds and ETFs—to retirement savers and other retail investors, the Division will continue to prioritize examining these funds. The examinations will cover compliance programs, disclosures, filings and governance practices, as well as fees and expenses and portfolio management and related disclosures. Particular areas of interest will include funds that are involved in mergers or other combinations, funds that have complex strategies or significantly invest in less liquid investments, and funds with novel strategies. As in prior years, the Division will also continue to prioritize examining recently registered funds and funds that have not previously been examined.

Broker-Dealers

The Exam Priorities include three areas of focus for broker-dealers:

1. **Financial Responsibility Rules.** Examinations will continue to focus on broker-dealer compliance with the net capital rule and the customer protection rules. They will cover operational resiliency programs, as well as broker-dealer credit, market and liquidity risk management controls, cash sweep programs, and prime brokerage activities.
2. **Trading-Related Practices and Services.** The Division will continue to prioritize review of trading practices, including extended hours trading and municipal securities. Reviews of order routing and execution will cover best execution; pricing and valuation of illiquid investments; and related disclosures. Reviews of compliance with Regulation SHO will assess reliance on the bona fide market making exception. The Division will also examine alternative trading systems.

3. Retail Sales Practices, including Compliance with Regulation Best Interest. The Exam Priorities highlight the following topics concerning sales practices and Regulation Best Interest:

- Recommendations relating to products and investment strategies, including (i) account types and rollovers; (ii) complex or tax-advantaged products, ETFs that invest in illiquid assets, municipal securities, 529 plans, private placements, structured products, alternative investments, and various other products that have complexities or are a growth area for retail investors; and (iii) recommendations that move an investment to a similar product, are related to opening different account types or are made to older investors or retirement or college savers.
- Conflict identification and mitigation, especially relating to (i) recommendations as to account type, rollovers and products with limited menus; (ii) dual registrants; and (iii) account allocation practices.
- Processes for reviewing investment alternatives.
- Processes for complying with the duty of care.

The Exam Priorities also point out that the Division may review supervision of sales practices at branch offices and will review broker-dealers' relationship summaries – Form CRS.

Self-Regulatory Organizations

National securities exchanges, the Financial Industry Regulatory Authority ("FINRA") and the Municipal Securities Rulemaking Board ("MSRB") are also subject to examination by the Division.

With regard to exchanges, the Division's examinations will assess whether they are enforcing compliance with self-regulatory organization rules and federal securities laws. They may also focus on regulatory programs and participation in National Market System Plans.

The Division selects major regulatory areas within FINRA to examine through a risk-assessment process, which is informed by collecting and analyzing extensive data, holding regular meetings with FINRA key functional areas, and reaching out to stakeholders such as broker-dealers and investor groups. The Division, along with FINRA and federal banking regulators, examines registrants for compliance with MSRB rules and uses a risk-assessment process similar to the one it uses to oversee FINRA to identify areas to examine at the MSRB.

Clearing Agencies

The Division conducts examinations of clearing agencies that have been designated as systemically important clearing agencies and for which the SEC is the supervisory agency. These exams include core risks, processes and controls, as well as operational and financial risks. The Division will also conduct risk-based examinations of other registered clearing agencies.

Other Market Participants

The Division will also examine other market participants in 2026, including municipal advisors, transfer agents, funding portals, security-based swap dealers, and security-based swap execution facilities.

The Division will continue to examine whether municipal advisors have met their fiduciary duty, whether they have complied with MSRB Rule G-42, which establishes standards of conduct and duties applicable to non-solicitor municipal advisors, and whether they have made required filings with the SEC.

The Division will continue to examine transfer agent processing of items and transfers, recordkeeping, safeguarding of funds and securities, and SEC filings.

The Division will focus on funding portal arrangements with qualified third-parties and their maintenance and transmission of investor funds. It will also examine whether funding portals are making and preserving required records and will review their compliance policies and procedures.

With respect to security-based swap dealers, examinations will continue to focus on whether they are meeting their obligations under Regulation SBSR^[2] to report accurately swap transactions to data repositories. The Division also expects to review these dealers' risk management practices and compliance with capital, margin and segregation requirements.

The Division plans to commence examinations of registered securities-based swap execution facilities focusing on their rules and policies and procedures related to trade monitoring, trade processing and participation. It also expects to assess how they establish risk analysis and oversight programs.

Risk Areas Impacting Various Market Participants

The Division identified four broad areas that are applicable to its examinations of multiple types of market participants -- Information Security and Operational Resiliency, Emerging Financial Technology, Regulation Systems Compliance and Integrity, and Anti-Money Laundering.

The Division's focus on cybersecurity practices remains vital to safeguarding customer records and information, and particular attention will be on firms' policies, procedures, governance practices, data loss prevention, access controls, account management, response to cyber-related incidents, and operational resiliency. The Division will also focus on training and security controls designed to identify and mitigate risks related to artificial intelligence and ransomware attacks.

Examinations will also assess compliance with Regulations S-ID and S-P, focusing on policies, procedures, internal controls, oversight of third-party vendors and governance practices. The Division will pay particular attention to a firm's Identity Theft Prevention Program and whether it is reasonably designed to identify red flags and whether it includes appropriate firm training. For

firms examined before the recent amendments to Regulation S-P^[3] become applicable, the Division will discuss the firms' progress on developing incident response programs. For examinations conducted after the amendments become applicable, the Division will address whether the firms' policies and procedures are appropriate to address safeguards for customer information.

The Division remains focused on emerging financial technology, such as automated investment tools, AI, and trading algorithms or platforms. The Division will, in particular, examine firms that employ automated investment advisory services and related tools and methods. These reviews will cover the accuracy of representations, the consistency of operations and controls with disclosure to investors, whether the algorithms lead to advice consistent with investors' profiles and strategies, and whether controls confirm this advice is consistent with regulatory obligations to investors, including older and other retail investors. In addition, the Division will consider recent AI developments and review the accuracy of representations about AI, as well as the adequacy of related policies and procedures.

The Division will also conduct examinations of Systems Compliance and Integrity ("SCI") entities, which will focus on their policies and procedures related to incident response and their identification and management of third-party vendor risk.

Finally, anti-money laundering programs must include, among other things, policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act. Examinations will review whether broker-dealers and certain registered investment companies are appropriately tailoring their programs to their business model and its risks, conducting independent testing, establishing an adequate customer identification program, and meeting their Suspicious Activity Report filing obligations. They will also review whether broker-dealers, advisers, and registered investment companies are monitoring compliance with foreign sanctions.

Conclusion

BCLP's attorneys are ready to assist clients in preparing for SEC examinations and navigating the Exam Priorities. Please contact any of the authors or your regular BCLP contact for guidance.

[1] [SEC Division of Examinations Announces 2026 Priorities, SEC \(Nov. 17, 2025\)](#)

[2] [17 CFR § 242 \(2024\)](#)

[3] [Privacy of Consumer Financial Information and Safeguarding Customer Information, Securities Exchange Act Release No. 34-100155 \(May 16, 2024\), as amended by Securities Exchange Act Release No. 34-100155a \(June 21, 2024\)](#)

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