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SEC Announces 2018 National Examination Priorities.

The Securities and Exchange Commission's Office of Compliance Inspections and Examinations (OCIE) recently [announced](#) its [2018 national examination priorities](#), which are broken down into five categories: (1) compliance and risks in critical market infrastructure; (2) matters of importance to retail investors, including seniors and those saving for retirement; (3) Financial Industry Regulatory Authority and Municipal Securities Rulemaking Board matters; (4) cybersecurity; and (5) anti-money laundering programs.

The areas of greatest interest to funds and advisers are:

- **Cryptocurrency, Initial Coin Offerings (ICOs), Secondary Market Trading and Blockchain Technology.** In light of the rapid growth of ICOs, OCIE will monitor the sale of these products, and, when the products are securities, examine for regulatory compliance. Noted areas of focus include whether financial professionals maintain adequate controls and safeguards to protect these assets from theft or misappropriation, and whether financial professionals are providing investors with disclosures about the risks associated with these investments, including the risk of investment losses, liquidity risks, price volatility and potential fraud.
- **Mutual Funds and Exchange-Traded Funds (ETFs).** OCIE identified ETFs in its exam priorities last year, but has broadened its focus to ETFs and mutual funds that seek to track custom-built indexes. OCIE will be looking for any conflicts the adviser may have with the index provider and the adviser's role with respect to the selection and weighting of index components. OCIE will also pay particular attention to mutual funds (1) that have experienced poor performance or liquidity in terms of their subscriptions and redemptions relative to their peer groups, (2) that are managed by advisers with "little experience managing registered investment companies," or (3) that hold securities that are potentially difficult to value during times of market stress (including securitized auto, student or consumer loans or collateralized mortgage-backed securities).
- **Anti-Money Laundering (AML) Programs.** Examiners will review for compliance with applicable AML requirements, with continued focus on examining whether applicable institutions are taking reasonable steps to understand the nature and purpose of customer relationships and to properly address risks. This includes, for example, compliance with [new rules](#) promulgated by the U.S. Treasury Financial Crimes Enforcement Network, effective on May 18, 2018, designed to strengthen customer due diligence requirements for "financial institutions," which includes mutual funds (but not registered investment advisers).
- **Cybersecurity.** Remaining as an item from last year's priorities, OCIE will continue to prioritize examinations of broker-dealers' and investment advisers' cybersecurity programs. Emphasis will be placed on governance and risk assessment, access rights and controls, data loss prevention, vendor management, training, and incident response procedures.
- **Other Issues Important to Retail Investors.** Protecting retail investors continues to be a theme in OCIE's 2018 priorities. OCIE will focus examinations on the disclosure of investment costs and fees, wrap fee programs, retirement products and senior investors, and the execution of customer orders in fixed-income securities. OCIE will also continue to examine advisers and broker-dealers that are offering investment advice through automated or digital platforms, including "robo-advisers." These examinations will focus on compliance programs, marketing, formulation of

investment recommendations, data protection and disclosures relating to conflicts of interest.

OCIE's announced priorities should come as no surprise, as they reflect many of the concerns and risks the SEC and its staff have expressed in recent years. More importantly, these priorities should serve as a roadmap for firms to test for, enhance and remediate any suspected deficiencies in these areas as they assess their policies, procedures and compliance programs.

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