

Locke Lord QuickStudy: FUNDamentals: 2025 SEC Examination ?Priorities?

FUNDamentals™ Series

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On October 21, 2024, the U.S. Securities and Exchange Commission's ("SEC") Division of Examinations (the "Division") released its [examination priorities](#) for 2025 (the "2025 SEC Examination Priorities"). The Division will prioritize seven focus areas that the Staff believes pose unique or emerging risks to investors or the markets that the Staff identified during its prior-year examinations.

The 2025 SEC Examination Priorities address both ongoing and emerging focus areas, which align with the Division's mission to promote and improve compliance, prevent fraud, monitor risk, and inform policy.

Summary of Significant Focus Areas

- **Investment Advisers.** The Division outlines four significant investment adviser examination priorities: (i) adherence to fiduciary standards of conduct; (ii) effectiveness of advisers' compliance programs; (iii) examinations of advisers to private funds; and (iv) examination of never examined advisers, recently registered advisers, and advisers that have not been recently examined, with emphasis on the following:
 - (i) Fiduciary standards: reviewing disclosures on high-cost products, unconventional instruments, illiquid or hard-to-value assets, and interest rate-sensitive investments. The Staff will also focus on review of dual registrants, advisers with affiliated broker-dealers, and the influence of financial conflicts of interest on providing impartial client advice.
 - (ii) Effectiveness of Compliance Programs: focusing on key areas such as marketing, valuation, trading, portfolio management, disclosures, filings, and custody; reviews will include fee calculations, disclosure of fee-related conflicts, alternative revenue sources, and internal annual compliance program assessments.
- **Investment Companies.** The Division will remain focused on examinations of registered investment companies, including mutual funds and exchange-traded funds. The Division will assess their compliance programs, disclosures, and governance practices. Specifically, the Division expects to focus on fund fees and expenses, oversight of service providers, portfolio management practices and disclosures, and issues associated with market volatility. They will also observe registered investment companies with exposure to commercial real estate and compliance with money laundering rules.
- **Broker-Dealers.** The Division expects to focus on: (i) Regulation Best Interest; (ii) Form CRS; (iii) broker-dealer financial responsibility rules; and (iv) broker-dealer trading-related practices and services. The Division highlighted the following:
 - (i) Broker-dealer product recommendations and investment strategies, and related disclosures regarding conflicts of interest and mitigation practices.
 - (ii) The content of a broker-dealer's Form CRS in regard to services offered to customers, fees charged to customers, conflicts of interest and disciplinary history.
 - (iii) Compliance with the net capital rule, customer protection rule, risk management controls, and internal procedures such as accounting and timeliness of financial notifications. The Division will also assess the strength of broker-dealers' supervision over third-party vendors.

- **Self-Regulatory Organizations.** The Division has expressed a focus on (i) National Securities Exchanges; (ii) Financial Industry Regulatory Authority (“FINRA”); and (iii) Municipal Securities Rulemaking Board (“MSRB”):
 - (i) The Division will review national securities exchanges to determine whether they are fulfilling their responsibilities to enforce compliance with their own rules and federal security laws.
 - (ii) The Division will conduct risk-based oversight examinations of FINRA to assess, among other things, (i) implementation of investor protection initiatives (e.g., Regulation Best Interest and Form CRS), (ii) administration of its dispute resolution forum, and (iii) FINRA’s examinations of its broker-dealers and municipal advisers.
 - (iii) The Division will evaluate registrants of the MSRB to ensure compliance with MSRB and federal securities rules and regulations.
- **Clearing Agencies.** The Division conducts examinations of clearing agencies as mandated by Title VIII of the Dodd-Frank Act, focusing on critical risks, processes, and controls, including financial and operational risks, compliance with the Commission’s Standards for Covered Clearing Agencies, and risk management framework established under the Securities Exchange Act of 1934 (the “Exchange Act”).
- **Other Market Participants.** The Division outlines five significant areas for examination: (i) municipal advisors; (ii) transfer agents; (iii) security-based swap dealers (“SBSDs”); (iv) security-based swap execution facilities (“SBSEFs”); and (v) funding portals. Regarding transfer agents, the Division will examine transfer agents’ processing of transactions, recordkeeping, safeguarding of assets, and compliance with SEC filing requirements. Special attention will be given to transfer agents utilizing emerging technologies, such as AI, in their operations.
- **General Risk Areas for Market Participants.** The Division has outlined five areas for examination: (i) information security and operational resiliency; (ii) emerging financial technologies; (iii) crypto assets; (iv) regulation systems compliance and integrity (“SCI”); and (v) anti-money laundering (“AML”). The areas highlight the following:
 - The Division will prioritize examining registrants’ practices to manage information security, operational risks, and compliance with key regulations, including Regulations S-ID and S-P, safeguarding customer records and preventing identity theft. In anticipation of the upcoming compliance deadlines for the amendments to Regulation S-P, the Division will assess firms’ progress on implementing incident response programs in compliance with these new requirements.
 - The Division will continue to focus on registrants’ use of emerging financial technologies, such as automated investment tools, AI, and trading algorithms. This will include reviewing how registrants protect against loss or misuse of client data that occur from the use of third-party AI tools and whether firms have adequate policies and procedures in place to monitor and/or supervise their use of AI.
 - The Division will continue to monitor and examine registrants offering crypto asset-related services, particularly focusing on activities involving securities and related products like spot bitcoin and ether exchange-traded products.
 - The Division will continue to concentrate on AML programs and review whether broker-dealers and investment advisers are properly tailoring their AML programs to their business, conducting independent testing, establishing an adequate customer identification program, and meeting their Suspicious Activity Reports filing obligations. The Division will also review whether broker-dealers and investment advisers are monitoring and complying with sanctions administered and enforced by the U.S. Department of Treasury’s Office of Foreign Assets Control.

As we have in the past, we will continue to monitor these issues and will provide future client updates. This QuickStudy is not intended to be used as a substitute for legal advice and should be utilized for guidance only.

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