Deloitte.

2024 examination focus areas for FINRA and SEC

The Financial Industry Regulatory Authority (FINRA) and Securities Exchange Commission (SEC) have released their annual reports outlining examination focus areas for 2024.[1] In a change from prior years, FINRA issued an "Annual Regulatory Oversight Report," emphasizing its attention to each of its rules every exam cycle. Although the regulators independently develop their priorities, there are four overlapping topics that securities firms and wealth managers may want to consider in the near term.

Center *for* **Regulatory Strategy US**

New FINRA focus areas in 2024

FINRA expanded its annual report to provide greater transparency to the public on its regulatory activities, and to serve as a library of information, resources, and relevant rules for member firms' compliance programs.

- **Crypto-asset developments:** FINRA will heighten focus on member firms' crypto asset-related activity to assess the adequacy of firms' supervisory programs and controls for cyber security, anti-money laundering (AML) compliance, communications with customers, manipulative trading, due diligence on crypto asset private placements, and supervision of involvement in crypto-asset related outside business activities and private securities transactions. FINRA recently released a target exam report related to crypto asset communications, finding "substantive violations" in an estimated 70% of relevant communications.[2]
- **Market Access Rule:** Exchange Act Rule 15c2-11 (Market Access Rule) requires firms with market access to appropriately control relevant risks. FINRA recently observed multiple firms with insufficient controls, impermissible exclusions, and a lack of vendor management and will increase its focus to ensure compliance across the industry.
- **Over-the-counter (OTC) quotations in fixed income securities:** FINRA will assess member firms' business and systems, in quoting fixed income securities, to identify: inadequate supervisory controls and procedures; failure to self-assess applicability; and failure to prevent potential quotations. Firms should follow additional guidance outlined in the SEC's no action letters which provide relief for fixed income securities.
- **Advertised volume:** FINRA underscores compliance with Rule 5210, and the importance of monitoring internal systems to ensure trade information is disseminated consistently, completely, accurately, and avoids inflating trade volume. Firms should ensure their operations, and that of their third-party service providers comply.

New SEC priorities in 2024

The SEC's new examination priorities include:

- **Clearing agencies:** SEC examinations of registered clearing agencies may include risk management of liquidity, models and model validation, margin systems, third-party service providers, and operations and will include both risk-based examinations and Corrective Action Reviews.
- **Broker-dealer financial responsibility rules:** The SEC will focus examinations on broker dealer accounting for various liabilities, including fully paid lending programs and the handling of liabilities related to reward programs, point programs, gift cards, and non-brokerage services.
- **Broker-dealer trading practices:** The SEC will continue to examine compliance with Regulation SHO, Regulation Alternative Trading Systems (ATS), and Exchange Act Rule 15c2-11. In 2024, examinations for wholesale market makers may delve into quote generation, order routing and execution practices, market data ingestion, regulatory controls, and risk management.

Overlapping focus areas and priorities

- **Crypto asset developments:** FINRA and the SEC have outlined emerging compliance risks and associated guidance for firms conducting crypto asset-related business. It is recommended firms review the following businesses areas to ensure adequate controls, policies, and procedures are in place to manage crypto asset-related activity: supervisory programs; cyber security; AML compliance; communications with customers; manipulative trading; due diligence of crypto asset private placements; and associated persons' involvement in crypto asset-related outside business activities and private securities transactions.
- **Regulation Best Interest and Form Customer Relationship Summary (CRS):** FINRA reiterates the importance of the "best interest" standard for broker-dealers when making securities or investment strategy recommendations to retail customers as well as the importance of Form CRS in disclosing to customers its business relationships and product and service offerings. Furthermore, the SEC will continue prioritizing examinations of broker-dealers and registered investment advisors (RIAs) for compliance focusing on investment advice, disclosures made to investors, processes for making best interest evaluations, and factors considered in light of the investor's investment profile.
- **AML programs:** Both FINRA and the SEC emphasize the importance of having an adequate AML program. With the rising risk of fraudulent transfers, and based upon the current geopolitical climate, broker-dealers and certain registered investment companies should be compliant with their AML obligations in order to assess whether they have established appropriate customer identification programs, are satisfying SAR filing obligations, are conducting ongoing due diligence on customers, are complying with beneficial ownership requirements, and have been conducting robust and timely independent tests of their AML programs.
- **Information security and operational resiliency:** Both FINRA and the SEC will continue to review broker-dealers and RIAs practices to prevent interruptions to mission-critical services and to protect customer information, records, and assets. Operational disruption risks remain elevated due to proliferation of cyber security attacks, geopolitical concerns, and dispersed operations. Firms should have adequate processes, procedures and controls in place to ensure operational resiliency and to combat potential information security exposures.

[1] Financial Industry Regulatory Authority (FINRA), "2024 FINRA Annual Regulatory Oversight Report," January 2024; Securities and Exchange Commission (SEC), "2024 Examination Priorities," October 2023.
[2] FINRA, "FINRA Provides Update on Targeted Exam: Crypto Asset Communications," January 2024.

Connect with us

George Black

Principal | Deloitte & Touche LLP
geblack@deloitte.com

Josh Uhl

Managing Director | Deloitte & Touche LLP
juhl@deloitte.com

Irena Gecas-McCarthy

Principal | Deloitte & Touche LLP
igecasmccarthy@deloitte.com

Meghan Burns

Manager | Deloitte Services LP
megburns@deloitte.com