

[Securities Regulation Daily Wrap Up, TOP STORY—Newly minted Exam Division announces 2021 priorities, \(Mar. 3, 2021\)](#)

Securities Regulation Daily Wrap Up

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By [Amy Leisinger, J.D.](#)

In particular, the Division will enhance focus on climate-related risks and other ESG issues.

The SEC's newly classified Division of Examinations has announced its 2021 examination priorities, including an enhanced focus on climate-related risks. The Division also will focus on conflicts of interest for brokers in connection with Regulation Best Interest and investment adviser' fiduciary duties. The Division will look at risks relating to FinTech, as well as potential risks to investors and the capital markets. Early on in the pandemic, the Division pivoted to focus on the most pressing risks, including examining whether registered firms' business continuity plans were updated, operational, and effective.

"Our priorities reflect the complicated, diverse, and evolving nature of the risks to investors and the markets, including climate and ESG," [said](#) Examinations Division Director Pete Driscoll. "In this unprecedented time, the Division is committed to continuing to adapt examination processes and find innovative ways to enhance the effectiveness of examinations and our risk-based approach," he explained.

Changing landscape. According to the [report](#), in FY 2021, the Division of Examinations will focus on, and respond to, market events and adjust its risk-based examination program as new and emerging risk areas develop. In particular, the division will focus on Reg. BI compliance and whether registered investment advisers have fulfilled their fiduciary duties of care and loyalty. In addition, the division will examine whether firms are mitigating conflicts of interest and providing appropriate disclosures.

The Examinations Division also will continue to prioritize retail investments and products, including mutual funds, ETFs, and fixed income securities. Now more than ever, business continuity and disaster recovery plans are crucial, the report notes, but the division plans to shift its focus to whether these plans are accounting for the risks associated with climate change. The Division also will review whether registrants have taken appropriate measures to safeguard customer accounts from intrusion, to oversee vendors and service providers, and to address malicious activities and respond to incidents.

Technology. Regarding Fintech, examinations will focus on evaluating whether registrants are operating consistently with their representations. Examinations of market participants engaged with digital assets will continue to assess whether investments are in the best interests of investors, as well as valuation and general portfolio management and trading practices. Relatedly, the Division will continue to review for compliance with applicable anti-money laundering (AML) requirements to ensure that practices are reasonably designed to identify suspicious activity.

Funds. Regarding investment advisers and investment companies, the Division will continue to review compliance programs. Advisers are increasingly offering investment strategies that focus on ESG factors. The Division will look for consistency and adequacy of disclosures regarding these strategies, determine whether the firms' processes and practices match their disclosures, review fund advertising, and review proxy voting policies and procedures. The Division will prioritize examinations of mutual funds or ETFs that have not previously been examined or have not been examined in a number of years.

Other issues. Examination of broker-dealers will continue to focus on customer protection, including the adequacy of internal processes and controls. It will also focus on compliance with best execution, and the effects of the COVID-19 pandemic. The Division will focus clearing agency examinations on compliance, legal, recovery and wind down, margin, back-testing, settlement and operations, liquidity risk management, and the effect of the

LIBOR transition. The Division will continue to evaluate whether SCI entities have established, maintained, and enforced written SCI policies and procedures as required, including cyber threat management/incident response. The Division notes that the published priorities for 2021 are not exhaustive and will not be the only areas of focus.

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