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# SEC Announces 2021 Examination Priorities

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On March 3, the Securities and Exchange Commission's Division of Examinations announced its examination priorities for 2021. These priorities include a greater focus on climate-related risks, conflicts of interests for brokers and investment advisers, and attendant risks related to FinTech.

In a statement by Acting Chair Allison Herren Lee, the Division announced it will enhance its focus on climate and environmental, social and governance- (ESG-)related risks by examining proxy voting policies and business continuity plans in order to ensure voting aligns with investors' interests and expectations. The Division stated it will be integrating climate as well as ESG considerations into the broader regulatory framework of the agency.

The Division will also focus on compliance concerns related to retail investors, including seniors and those saving for retirement. Specifically, it will focus on compliance with Regulation Best Interest, Form CRS, whether registered investment advisers are fulfilling their fiduciary duties, and whether firms are mitigating conflicts of interest and providing disclosure of those conflicts in a manner that is sufficient to enable informed consent by retail investors. The Division will continue to prioritize investments heavily used by retail investors, including mutual funds, exchange-traded funds, municipal securities and other fixed income securities, variable annuities, private placements, and microcap securities.

The Division will also focus on information security and operational resiliency by shifting focus to whether firms' business continuity and disaster recovery plans are accounting for growing climate change risks. The Division will also review whether registrants have taken sufficient measures to safeguard customer accounts, oversee vendors and service providers, and respond to incidents such as malicious email activity, account intrusions, phishing, and ransomware attacks, among other things.

Regarding FinTech and innovation including digital assets, among other areas, the Division will focus on evaluating whether registrants are operating consistently with their representations, whether firms are handling customer orders according to their instructions, as well as review compliance with trade recommendations in mobile applications. Examinations related to digital assets will include whether investments are in the best interests of investors, safety of client funds and assets, and pricing and valuation.

With respect to anti-money laundering programs, the Division will focus on reviewing for compliance with applicable anti-money laundering requirements.

The Division will also examine registrants to evaluate their understanding of exposure to the London Inter-Bank Offered Rate (LIBOR), preparations for the anticipated discontinuation of LIBOR, and the transition to an alternative reference rate.

The Division also announced priorities in areas involving broker-dealers and municipal advisors, including compliance with the Consumer Protection Rule and the Net Capital Rule. The Division indicated it will focus on the adequacy of internal processes, procedures, controls, and requirements for borrowing securities from customers. Broker-dealer examinations will also focus on compliance with best execution in a zero commission environment, recently amended Rule 606 order routing disclosure rules, and market-maker compliance with Reg SHO. The Division will also examine how municipal advisors may have adjusted their practices in light of the COVID-19 pandemic, as well as whether they have met their fiduciary duty obligations to municipal entity clients.

Regarding market infrastructure, the Division will focus its examinations on clearing agencies, national securities exchanges, regulation systems compliance and integrity, transfer agents, and the Financial Industry Regulatory Authority (FINRA) and the Municipal Securities Rulemaking Board (MSRB), among other things.



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