



# Regulatory Alert

Regulatory Insights for Financial Services



October 2023

## Examinations: SEC 2024 Priorities

### KPMG Insights:

- SEC’s 2024 Examination Priorities reflect its broad regulatory scope across market participants.
- For the first time, the release aligns with the start of the SEC’s fiscal year; the agency intends to increase in-person fieldwork.
- Ongoing attention to compliance with new rules and regulatory requirements (e.g., Marketing Rule, Customer Protection Rule) as well as progress on its ambitious regulatory agenda.
- Identified emerging risks including information security, operational resiliency, financial technology, and AML (e.g., sanctions, beneficial ownership).

The Securities and Exchange Commission (SEC) Division of Examinations (Division) issues its [annual report](#) outlining priority examination areas for various market participants in fiscal year 2024, as well as key risk areas that may impact them. In developing their priorities, the Division considers the impacts of new regulatory requirements, which will influence examinations, compliance risks, and new focus areas. The Division

notes their intention to enhance industry engagement through increased in-person fieldwork, compliance outreach events, speaking engagements, and similar efforts.

The Division’s 2024 examination priorities for various market participants are outlined in the table below.

Market Participants	Examination Priorities	Related KPMG Regulatory Alerts
<b>Investment Advisers</b>	<p>Focus on reviewing advisers' adherence to duty of care and duty of loyalty obligations, including investment advice provided to clients, processes for determining that investment advice is in clients' best interest, economic incentives for advisers, and disclosures made to investors. Focus areas will include:</p> <ul style="list-style-type: none"> <li>— Compliance programs, policies, and procedures.</li> <li>— Marketing practices, compensation arrangements, and valuation assessments.</li> </ul>	<p><a href="#">Risk Alert: SEC Investment Adviser Supervision</a></p> <p><a href="#">SEC Examinations Risk Alert: Marketing Rule</a></p> <p><a href="#">Names Rules: SEC Final Amendments</a></p>



	<ul style="list-style-type: none"> <li>— Safeguarding client information, assets, and records.</li> <li>— Disclosure assessments and regulatory filings accuracy.</li> <li>— Oversight of third-party and affiliated service providers, branch offices, and informed consent processes.</li> </ul> <p>Similarly, specific focus areas for investment advisers to private funds will include:</p> <ul style="list-style-type: none"> <li>— Portfolio management risks.</li> <li>— Adherence to contractual requirements regarding limited partnership advisory committees (e.g., advisory boards).</li> <li>— Calculation and allocation of private fund fees and expenses.</li> <li>— Due diligence practices.</li> <li>— Conflicts, controls, and disclosures regarding private funds managed side-by-side with registered investment companies and use of affiliated service providers.</li> <li>— Compliance with Advisers Act requirements regarding custody, including accurate Form ADV reporting, timely completion of private fund audits by a qualified auditor, and distribution of private fund audited financial statements.</li> <li>— Policies and procedures for reporting on Form PF.</li> </ul>	<p><a href="#">Third party risk management: SEC Investment Adviser Proposal</a></p> <p><a href="#">SEC Private Fund Adviser Reforms: Final Rules</a></p> <p><a href="#">Form PF and Share Repurchase Disclosures: Final Rules</a></p>
<p><b>Investment Companies</b></p>	<p>Evaluation of compliance programs, governance practices, disclosures to investors, and the accuracy of reporting to the SEC. Notable areas of examination focus may include:</p> <ul style="list-style-type: none"> <li>— Advisory and fund fees, expenses, and board approval processes.</li> <li>— Valuation practices, including fair valuation and derivatives risk management.</li> <li>— Compliance with exemptive order conditions.</li> </ul>	<p><a href="#">SEC Money Market Fund Reforms &amp; Customer Protection Rule Proposal</a></p>
<p><b>Broker-Dealers</b></p>	<p>Assessment of compliance with Regulation Best Interest (BI), Form CRS, financial responsibility rules, and trading practices. Key focus areas will include:</p> <ul style="list-style-type: none"> <li>— Recommendations to retail customers and compliance with Regulation BI.</li> <li>— Content of relationship summaries and delivery obligations under Form CRS.</li> <li>— Compliance with the Net Capital Rule, Customer Protection Rule, lending programs, reward programs, and risk management controls (e.g., credit, interest rate, liquidity, market).</li> </ul>	<p><a href="#">SEC Examinations Risk Alert: Regulation Best Interest</a></p> <p><a href="#">SEC Money Market Fund Reforms &amp; Customer Protection Rule Proposal</a></p> <p><a href="#">"Covered Technologies" and Conflicts of Interest: SEC Proposal</a></p> <p>Short Sale Disclosure</p> <p>Reporting of Securities Loans</p>

	<ul style="list-style-type: none"> <li>— Review of equity and fixed income trading practices (e.g., order routing and execution practices; compliance with Regulation SHO, Regulation ATS).</li> </ul>	
<b>Self-Regulatory Organizations (SROs)</b>	<p>Scrutiny of SRO compliance with rules governing operations and enforcement activities (e.g., National Securities Exchanges and the Financial Industry Regulatory Authority (FINRA)), and review of fulfillment of regulatory duties (Municipal Securities Rulemaking Board (MSRB)). Focus areas will include:</p> <ul style="list-style-type: none"> <li>— Enforcement of compliance with SRO rules and federal securities laws (e.g., exchange order handling and exchange surveillance, investigation, and enforcement programs).</li> <li>— Risk assessment of FINRA’s operations and regulatory programs as well as oversight examinations of FINRA exams.</li> <li>— Risk assessment of MSRB’s operations and regulatory programs as well as oversight examinations of MSRB compliance exams.</li> </ul>	<p><a href="#">Examination and Risk Monitoring: FINRA 2023 Report</a></p> <p>Volume-Based Exchange Transaction Pricing</p>
<b>Clearing Agencies</b>	<p>Examinations of clearing agencies designated as systemically important are conducted at least annually, and focus on core risks, processes, and controls, among other areas, while all other clearing agencies without that designation are subject to risk-based and examinations and Corrective Action Reviews. These exams will review compliance with the SEC’s Standards for Covered Clearing Agencies and other relevant requirements. Reviews will assess:</p> <ul style="list-style-type: none"> <li>— Risk management frameworks and compliance with the Exchange Act.</li> <li>— The adequacy and timeliness of remediation of prior deficiencies.</li> </ul> <p>Areas of examination focus in 2024 may include:</p> <ul style="list-style-type: none"> <li>— Liquidity risk management.</li> <li>— Models and model validation.</li> <li>— Margin systems.</li> <li>— Third-party service providers.</li> <li>— Operations.</li> <li>— Internal audit function.</li> </ul>	<p><a href="#">Clearing Agency Risk Management and "Living Wills"</a></p>
<b>Other Market Participants</b>	<p>Focus areas for other market participants (e.g., Municipal Advisors, Security-Based Swap Dealers, Transfer Agents, and</p>	<p><a href="#">SEC Proposes Amendments to the Custody Rule</a></p>

	<p>those associated with crypto assets and emerging financial technology) will include:</p> <ul style="list-style-type: none"> <li>— Compliance with fiduciary duty obligations, recordkeeping, and registration requirements.</li> <li>— Security-Based Swap Dealers' compliance with capital, margin, and segregation requirements.</li> <li>— Transfer agent processing, safeguarding of funds and securities, and regulatory filings.</li> </ul>	<p><a href="#">SEC Proposals on Cyber Risk Management for Market Entities</a></p>
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**Risk Areas.** The table below summarizes key emerging risk areas that may impact investors or various market participants, as outlined in the report.

Risk Area	Summary	Related KPMG Regulatory Alerts
<p><b>Information Security and Operational Resiliency</b></p>	<p>Focus on companies' cybersecurity, data privacy, and operational resiliency measures, including policies and procedures aimed at preventing service interruptions and protecting client data and assets.</p> <p>Similarly, assessment of companies' responses to cyber-related incidents, including ransomware attacks, and whether they adequately train staff regarding identity theft prevention programs.</p> <p>In connection with changes to a T+1 settlement cycle, assessment of companies' preparations for the compliance date of May 28, 2024.</p>	<p><a href="#">Cybersecurity: SEC Proposal for Adviser/Fund Risk Management</a></p> <p><a href="#">SEC Proposals on Cyber Risk Management for Market Entities</a></p> <p><a href="#">SEC Proposes Amendments to Regulation S-P</a></p> <p><a href="#">Public Company Cybersecurity Risk Management, Strategy, Governance and Incident Disclosure</a></p>
<p><b>Crypto Assets and Emerging Financial Technology</b></p>	<p>Examination of how companies involved with crypto assets meet and follow standards of conduct and compliance, review of risk disclosures and operational resiliency practices.</p> <p>Ongoing focus on certain services, including automated investment tools, artificial intelligence, and trading algorithms or platforms, and the risks associated with the use of emerging technologies and alternative sources of data.</p>	<p><a href="#">"Covered Technologies" and Conflicts of Interest: SEC Proposal</a></p> <p><a href="#">Focus on Non-Bank Financial Firms, P2P Platforms, and Crypto Exchanges</a></p>
<p><b>Regulation Systems Compliance and Integrity (SCI)</b></p>	<p>Evaluation of whether SCI entities have implemented policies and procedures to ensure the security and resiliency of their systems and meet the requirements of Regulation SCI.</p>	<p><a href="#">SEC Proposal to Expand Regulation SCI</a></p>
<p><b>Anti-Money Laundering</b></p>	<p>Examination of whether broker-dealers and certain registered investment companies:</p>	<p><a href="#">AML Enforcement: SEC Risk Alert &amp; FFIEC Exam Manual Updates</a></p>

	<ul style="list-style-type: none"> <li>— Have tailored AML programs that address business model and associated AML risks.</li> <li>— Conduct independent testing.</li> <li>— Meet Suspicious Activity Report (SAR) filing obligations.</li> <li>— Monitor Office of Foreign Assets Control (OFAC) sanctions and ensure compliance with such sanctions.</li> <li>— Establish an adequate customer identification program, including for beneficial owners of legal entity customers.</li> </ul>	<p><a href="#">SEC Beneficial Ownership Reporting Amendments</a></p>
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For more information, please contact [Amy Matsuo](#), [Mike Sullivan](#) or [Stefan Cooper](#).

## Contact the author:



**Amy Matsuo**  
Principal and National  
Leader  
Regulatory Insights  
[amatsuo@kpmg.com](mailto:amatsuo@kpmg.com)

[kpmg.com/socialme](https://kpmg.com/socialme)



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