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## PREPARING FOR AND MANAGING AN SEC EXAMINATION OF A REGISTERED INVESTMENT ADVISER

*The examination of investment advisers continues to be an important program for the SEC's Division of Examinations. In this article the author outlines the types of examinations the Division conducts and its 2021 examination priorities. She then provides recommendations how to prepare for an examination, handling the request, and managing the examination. She adds notes on exit interviews and examination summary letters, and concludes with a reminder of the importance of a culture of compliance.*

By Kelley A. Howes \*

The U.S. Securities and Exchange Commission Division of Examinations ("EXAMS" or the "Division") operates the SEC's National Exam Program ("NEP") out of the SEC's headquarters in Washington, D.C. and each of the SEC's 11 regional offices. The NEP's stated goals are to protect investors, ensure market integrity, and support capital formation through risk-focused strategies that: (i) improve compliance; (ii) prevent fraud; (iii) inform policy; and (iv) monitor firm-wide and systemic risk.<sup>1</sup> The Investment Adviser/Investment Company examination program is one of the two largest program areas (together with the Broker-Dealer and Exchange program).<sup>2</sup>

As of the end of 2020, the number of registered investment advisers overseen by the Division was approaching 14,000, representing assets under management of approximately \$97 trillion.<sup>3</sup> Given those

numbers, EXAMS is unable to regularly review all of the investment advisers registered with the SEC. Nonetheless, EXAMS reported an increased rate of such examinations from 10 percent in 2014 to 15 percent in 2020, despite a mid-year shift to remote examinations in 2020.<sup>4</sup> Even more importantly, from the point of view of registrants, EXAMS continues to expand its staff training related to investment advisers and, over the last several years, has hired experienced subject matter experts. In short, the examination of investment advisers continues to be an area of emphasis for the EXAMS staff.

This article provides an overview of current examination priorities identified by the EXAMS staff. It then provides practical recommendations related to how an investment adviser and its compliance staff can proactively prepare for an examination and effectively manage an examination once it has begun.

### THE NATIONAL EXAM PROGRAM

In general, the NEP conducts three types of examinations:

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<sup>1</sup> *About the Division of Examinations*, <https://www.sec.gov/exams/about>.

<sup>2</sup> *2021 Examination Priorities*, Division of Enforcement (Mar. 3, 2021), <https://www.sec.gov/files/2021-exam-priorities.pdf>.

<sup>3</sup> *Id.*

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<sup>4</sup> *Id.*

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