

Anchin Alert

Anchin, Block & Anchin LLP
Accountants and Advisors



January 11, 2019

The OCIE Lays Out Six Examination Priorities for 2019

Every year, the SEC's Office of Compliance Inspections and Examinations (OCIE) publishes a report listing their priorities for upcoming examinations. For 2019, they will focus their attention on six categories:

1. Matters of importance to retail investors, including seniors and those saving for retirement
2. Compliance and risk in registrants responsible for critical market infrastructure
3. Select areas and programs of the Financial Industry Regulatory Authority (FINRA) and Municipal Securities Rulemaking Board (MSRB); two self-regulatory bodies
4. Digital Assets (e.g. cryptocurrencies such as Bitcoin)
5. Cybersecurity
6. Anti-Money Laundering

Their report also went into detail about what firms should specifically prepare in these areas. Here's what the OCIE will be watching out for in 2019.

1 – Retail Investor Protection and Disclosures

Protecting retail investors was at the top of the OCIE list. For 2019, examiners will be paying close attention to whether advisers properly disclose their fees as well as potential conflicts of interest to their clients. Some potential conflicts include advisers using products or services from affiliated entities and when they use securities in their clients' brokerage or advisory accounts to secure loans. While these transactions are allowed, OCIE has made it clear that the risks and potential downsides should be disclosed to clients.

OCIE will also be verifying whether portfolio management and investment recommendations are suitable for clients, including seniors and retirement accounts, and whether investment opportunities are fairly allocated among clients. Finally, OCIE will prioritize checking never-before or not-recently examined investment advisers.

2 – Critical Market Infrastructure

OCIE noted that clearing agencies, transfer agents and national securities exchanges all play critical roles in maintaining market stability and efficiency. Their examinations will check whether these agencies and entities are staying up-to-date with the latest SEC procedures, laws and safeguards to make sure they are functioning properly. OCIE will also see whether these agencies and entities have followed through on recommendations from past examinations.

3 – FINRA and MSRB

OCIE inspects both FINRA and MSRB. For FINRA, OCIE will examine their operations and regulatory programs while also investigating the quality of FINRA examinations for broker-dealers. For MSRB, OCIE will review the effectiveness of their policies, procedures and controls.

4 – Digital Assets

The market for digital assets has grown quickly and poses new risks for retail investors. In 2019, OCIE will continue to monitor this market and whenever digital assets are considered securities, OCIE will check that they meet regulatory compliance. For firms that are involved in this market, OCIE's examinations will be focused on portfolio management of digital assets, trading, safety of client funds and assets, pricing of client portfolios, compliance and internal controls.

5 – Cybersecurity

Cybersecurity remains a top priority for OCIE as they note a successful cyberattack can have consequences that extend far beyond a compromised firm. Their 2019 examinations will concentrate on the proper configuration of network storage devices, information security governance and a firm's policies and procedures for trading information security.

Other key parts of cybersecurity include: access rights and controls, data loss prevention, vendor management, training and incident response.

While firms are doing better with cybersecurity, the SEC still finds areas where they are falling dangerously short. If you are worried about potential vulnerabilities in your network, Anchin's affiliated Redpoint Cybersecurity team specializes in cybersecurity for asset managers and family offices and can help prepare firms for the inevitable attack, as well as an OCIE examination.

6 – Anti-Money Laundering Programs

Broker-dealers are required to have Anti-Money Laundering (AML) programs as part of the Bank Secrecy Act. This means having policies and procedures in-place that monitor for suspicious activity, perform due diligence to identify possible money laundering activities and, when necessary, file Suspicious Activity Reports (SARs) with the Financial Crimes Enforcement Network. OCIE will be looking to see that broker-dealers are up-to-date with their AML procedures.

OCIE reminded everyone that the priorities list is not a complete and exhaustive list of their areas of concern and they could consider other areas as part of a review. Still investment advisers and broker-dealers should make compliance in these six categories a priority as they were specifically identified in the OCIE's 2019 release. Advisers would be well served to evaluate and update their policies and procedures in light of OCIE's guidance.

Anchin's Financial Services Group is available to assist you.



Anchin, Block & Anchin LLP
Accountants and Advisors
1375 Broadway, New York, NY 10018
212.840.3456 • www.anchin.com

