

FINRA's 2016 Regulatory and Examination Priorities Letter

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Each year, the Financial Industry Regulatory Authority (FINRA) issues guidance concerning their regulatory priorities for the coming year. This year, FINRA issued its 2016 Annual Regulatory and Examination Priorities Letter on January 5. FINRA's 2016 Regulatory and Examination Priorities Letter sets out three broad issues of focus for the coming year:

- Culture, Conflicts of Interest and Ethics
- Supervision, Risk Management and Controls
- Liquidity

Set forth below are summaries of each of these critical issues, as well as other areas of focus identified by FINRA

In order to provide additional insight into the evolution of FINRA's regulatory and examination priorities, we have also prepared a detailed comparison of FINRA's priorities between 2007 and 2016. The comparison of FINRA's priorities is available [HERE](#).

Culture, Conflicts of Interest and Ethics

In the first of the three broad issues identified, FINRA plans to formalize assessment of firm culture to understand how it affects compliance and risk management practices. In considering firm culture, which FINRA defines as "the set of explicit and implicit norms, practices and expected behaviors that influence how firm executives, supervisors and employees make and implement decisions..." FINRA will assess five indicators: (1) whether control functions are valued within the organization; (2) whether policy or control breaches are tolerated; (3) whether the organization proactively seeks to identify risk and compliance events; (4) whether supervisors are effective role models of firm culture; and (5) whether sub-cultures (*e.g.* at a branch office, a trading desk or an investment banking department) that may not conform to overall corporate culture are identified and addressed. FINRA considers firm culture to be closely related to supervision; an ongoing area of focus.

Supervision, Risk Management and Controls

In the second of the three broad topics identified, FINRA will focus on firms' supervisory systems and will emphasize four areas where they report observing repeated concerns that affect firms' business conduct and the integrity of the markets: (1) management of conflicts of interest; (2) technology; (3) outsourcing; and (4) anti-money laundering (AML). With respect to conflicts of interest, FINRA is particularly concerned with firms' incentive structures and conflicts of interest created by proprietary or affiliated products, with firms' use of research analysts and whether such use violates FINRA research rules, with inappropriate information leakage, and with traders' valuations for proprietary positions they establish. Regarding technology, FINRA will focus on firms' supervision and risk management related to cybersecurity, technology

management, and data quality and governance. With respect to outsourcing, FINRA is concerned with firms' due diligence and risk assessment of third party providers and emphasizes firms' duty to supervise third party providers. Finally, FINRA continues to assess the adequacy of firms' monitoring for suspicious activity and plans to prioritize the assessment of the adequacy of firms' monitoring of high-risk customer accounts and transactions, with a particular emphasis on microcap securities.

Liquidity

Firms' management of liquidity is a continuing concern for FINRA, and they attribute both individual firm failures and systematic crises to firms' failures to manage liquidity. FINRA will review the adequacy of firms' contingency funding plans in light of their business models, and will additionally focus on the adequacy of high-frequency trading firms' liquidity planning and controls.

Other

In addition to these three broad topics, FINRA has identified a host of other issues upon which it will focus in 2016, including suitability and concentration, seniors and vulnerable investors, sales charge discounts and waivers, 529 college savings plans, private placements, the JOBS Act and public offerings, outside business activities, market-maker net capital exemptions, exchange-traded funds, fixed income prime brokerage, internal audit, client onboarding, transmittal of customer funds, vendor display rule, market access, fixed income, regulation SHO, cross-market and cross-product manipulation, and audit trail integrity.

If you have any questions regarding these issues or any other securities-related issues, or need assistance in evaluating your company's policies and procedures, please contact any of the attorneys in Baker Donelson's [Broker-Dealer/Registered Investment Adviser Group](#).