

AN ALERT FROM THE BDO FINANCIAL SERVICES PRACTICE

BROKERAGE INSIGHTS

2019 FINRA ANNUAL RISK MONITORING AND EXAMINATION PRIORITIES

By John Iacobellis

Earlier this month FINRA released their [2019 Risk Monitoring and Examination Priorities Letter](#), which identified the topics that FINRA will focus on in the coming year.

SUMMARY

FINRA CEO Robert Cook noted that, "this year's Priorities Letter takes a new approach by highlighting those topics that will be materially new areas of focus for our risk monitoring and examination programs."

The new areas of focus include:

1. **Online Distribution Platforms** – FINRA will evaluate how firms operate distribution of securities through online platforms, including how firms conduct their reasonable basis and customer-specific suitability analyses, supervise communications with the public and meet Anti-Money Laundering (AML) requirements.
2. **Fixed Income Mark-Up Disclosure** – FINRA will review firms' compliance with their mark-up or mark-down disclosure obligations on fixed income transactions with customers pursuant to amendments to [FINRA Rule 2232](#) (Customer Confirmations) and [MSRB Rule G-15](#), which became effective in 2018.
3. **Regulatory Technology** – FINRA will engage with firms to understand how they are using innovative regulatory technology (RegTech) tools and address related risks, challenges or regulatory concerns, including those relating to supervision and governance systems, third-party vendor management, safeguarding customer data and cybersecurity.

The letter also classified four areas of ongoing regulatory concern that FINRA will continue to prioritize, review and examine in 2019:

1. **Sales Practice Risks** – FINRA's top priorities will include suitability; the protection of senior and retired investors; and assessment of firms' controls related to associated persons' outside business activities and private securities transactions.
2. **Operational Risks** – FINRA will review firms' digital assets business, as well as assess firms' compliance with customer due diligence and suspicious activity reviews.



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3. **Market Risks** – FINRA will examine firms' best execution decision-making; focus on market manipulation and market access; and review short sales and short tenders for compliance with Exchange Act Rule requirements.
4. **Financial Risks** – FINRA will continue to evaluate firms' funding and liquidity planning, as well as the firms' policies and procedures for identifying, measuring and managing credit risk.

KEY CONSIDERATIONS

- ▶ Broker-dealers should assess their compliance, supervisory and risk management programs in accordance to each of FINRA's highlighted areas of focus. Firms should also be prepared to explain, and provide evidence of, their compliance to FINRA regulations. As these are materially new priorities, firms must assure that they have the capability to locate and implement the required adjustments to any faults in their programs' processes and procedures.

- ▶ When preparing for upcoming FINRA examinations, broker-dealers must keep in mind that the 2019 Priorities Letter does not repeat topics that have been mainstays of FINRA's attention over the years. Firms should therefore expect that, as in previous years, FINRA will also review for:

- Compliance regarding ongoing areas of focus, namely obligations related to suitability determinations.
- Risks related to associated persons with a problematic regulatory history.
- The adequacy of firms' cybersecurity programs to protect sensitive information, including personally identifiable information.

Broker-dealers should continue to look out for additional FINRA announcements and regulatory materials throughout the year, as FINRA may choose to update its view on risks, as well as provide observations on both concerns and effective practices relevant to some of the focus areas.

To discuss your organization's compliance and risk monitoring strategy for 2019, please contact:

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