



EXAMINATION INFORMATION FOR ENTITIES SUBJECT TO EXAMINATION OR INSPECTION BY THE COMMISSION

The examination staff of the Office of Compliance Inspections and Examinations (OCIE) of the Securities and Exchange Commission (Commission) has prepared this brochure to provide information about examinations it conducts, including information about the examination process and the methods the examination staff employs for resolving issues identified during examinations. This information, provided to entities undergoing examination or inspection, should help entities to understand better the examination staff's objectives in this area.

I. PURPOSE OF EXAMINATIONS

Commission representatives have statutory authority to conduct, at any time or from time to time, reasonable periodic, special and other examinations of the records of specified Commission-regulated entities. OCIE carries out these examination responsibilities through the National Examination Program (NEP) comprised of examination staff in 11 regional offices and the home office in Washington, D.C. OCIE's mission is to protect investors, ensure market integrity and support responsible capital formation through risk-focused strategies that: (1) improve compliance; (2) prevent fraud; (3) monitor risk; and (4) inform policy.

During examinations, the examination staff will seek to determine whether the entity being examined is: conducting its activities in accordance with the federal securities laws and rules adopted under these laws (as well as, where applicable, the rules of self-regulatory organizations subject to the Commission's oversight); adhering to the disclosures it has made to its clients, customers, the general public and/or the Commission; and implementing supervisory systems and/or compliance policies and procedures that are reasonably designed to ensure that the entity's operations are in compliance with the applicable legal requirements. The examination staff appreciates each entity's cooperation with the examination process as it will greatly facilitate the examination staff's ability to complete the examination in a timely manner. Therefore, entities should work to ensure that the examination staff is provided promptly with complete information and knowledgeable employees are made available to help the examination staff better understand the entity and its operations.

II. THE EXAMINATION PROCESS

The Commission's examination program is a risk-based program. An entity may be selected for examination for any number of reasons including, but not limited to, a statutory mandate that requires the Commission to examine the entity; the entity's risk profile; a tip, complaint or referral; or a review of a particular compliance risk area. To help evaluate the effectiveness of our risk-based selection process, the NEP may also randomly select some firms for examination. The reason an entity has been selected for examination is non-public information, and typically will not be shared with the entity under examination. As part of their pre-examination planning

process, the examination staff actively works to allocate efficiently examination resources and to determine whether an examination's scope might overlap with the scope of any recent or ongoing examinations or investigations by other regulators or staff in other Commission offices or divisions. Sometimes an examination may overlap with ongoing examinations or investigations by other regulators or Commission staff because of legal requirements or otherwise. If an entity has any concerns with respect to overlapping examinations or investigations, as described above, the entity should contact the examination team(s) involved.

In addition, throughout the examination process, the examination staff may consult and/or coordinate with other Commission staff, including supervisory examination staff and staff in other Commission offices and divisions, regarding any issues identified as well as interpretation and application of the securities laws and rules adopted under these laws, and, to the extent applicable, self-regulatory organization rules. As a result, examination staff may share information and documents received from the entity during the examination with other Commission staff to the extent the examination staff deems necessary or appropriate. This and other possible uses of information and documents provided to the examination staff are described in the Commission's Form 1661, which may be accessed at www.sec.gov/about/forms/sec1661.pdf.

Examinations may be conducted on an announced or unannounced basis. When the examination is announced, the examination staff may send the entity a letter notifying it of the examination and containing a request list that identifies certain information or documents that the examination staff will review as part of the examination. In most instances, the examination staff will request that certain of the information and documents be provided in electronic format, if available. The letter may ask that the information and documents: (1) be delivered to the Commission's offices by a specified date; and/or (2) be made available for review at the entity's offices on a specified date. When the examination is unannounced, the examination staff may provide the entity with an information or document request list upon arrival and may conduct an initial interview.

In addition to the letter and/or request list identified above, the examination staff will provide the entity with the Commission's Form 1661, and, upon request, the examination staff will also provide the name and telephone number of their supervisor.

In many examinations, the examination staff will visit the physical premises of the entity to conduct examination work. Upon arrival, the examination staff will identify themselves and present their Commission credentials. The examination staff may conduct an initial interview. During this initial interview, the examination staff will ask questions about the entity and the activities to be examined. This information assists the examination staff in understanding the entity and its operations. The examination staff may also ask for a tour of the entity's offices to gain an overall understanding of the entity's organization, flow of work, and control environment. The initial interview and tour can be critical because they may determine the tone and focus of the examination. Some examinations may be completed without an on-site visit through a review of records in the Commission's offices along with interviews conducted by telephone, as needed. A cooperative approach by the entity being examined will help facilitate the examination.

Following this initial phase of the examination, the examination staff will review the information and documents the entity has provided. During this review, the examination staff may make

supplemental requests for additional information and documents. Throughout the examination, the entity should communicate promptly to the examination staff any questions or concerns regarding the documents and information that have been requested. In all cases, producing requested information and documents in a timely manner will facilitate the efficient completion of the examination. The examination staff may also request meetings (in person or by telephone) with entity employees to discuss the entity's operations and the information and documents provided. The entity should make knowledgeable employees or other knowledgeable persons available to participate in the meetings. These meetings help the examination staff gain a better understanding of the entity's activities and compliance processes. The examination staff may also request relevant information and documents held by third party service providers or agents (including custodians) that, for example, perform work for, or in conjunction with, the entity or whose activities may have a material impact on the entity. Examination staff may send such requests to the entity or directly to the third party service provider or agent. In addition, the examination staff routinely contacts the entity's clients, customers, or other knowledgeable persons, as necessary, to gather and/or verify relevant information.

Typically, on the last day of the on-site visit, the examination staff may conduct a preliminary "exit interview" during which they will discuss the status of the examination and any outstanding information and document requests and, if appropriate, raise any issues identified during the examination to that point. During the preliminary exit interview, the entity will be given an opportunity to discuss any of the issues that the examination staff raises and provide additional relevant information, including any actions the entity has taken or plans to take to address those issues. Entities are also encouraged to keep the staff informed of any relevant changes that occur after the on-site portion of the examination has been completed.

Following the on-site visit, the examination staff, in many cases, will perform additional analyses of the information or data obtained during the on-site examination. This may include contacting the entity to ask clarifying questions or to request additional information or documents. If the analysis performed subsequent to completion of the on-site portion of the examination reveals issues in addition to those discussed during the preliminary exit interview, the examination staff, under most circumstances, will contact the entity, usually by telephone, to discuss these additional issues as part of a "final exit interview." During the final exit interview, the entity will typically be given an opportunity to discuss any of the issues that the examination staff has raised with the entity during the course of the examination and provide additional relevant information, including any actions that the entity has taken or plans to take to address the issues raised. In limited situations, the examination staff may not conduct preliminary or final exit interviews. In connection with either a "preliminary exit interview" and/or "final exit interview," staff may speak with the entity's senior management and/or its board of directors.

III. COMPLETING AN EXAMINATION

Section 4E of the Securities Exchange Act of 1934 requires the examination staff to complete compliance examinations within 180 days from the latter occurrence of one of two specified events. Specifically, Section 4E (b)(1) provides that:

Not later than 180 days after the date on which Commission staff completes the on-site portion of its compliance examination or inspection **or** receives all records requested from the entity being examined or inspected, **whichever is later**, Commission staff shall

provide the entity being examined or inspected with written notification indicating either that the examination or inspection has concluded, has concluded without findings, or that the staff requests the entity undertake corrective action. (Emphasis added)

For certain complex examinations, the examination deadline may be extended for an additional 180-day period. Generally, the examination staff will provide an entity with written notification of an examination's completion by sending a deficiency letter. If the examination staff identifies serious issues during an examination, in addition to sending the entity a deficiency letter, the examination staff may refer the issues to the Commission's Division of Enforcement, a self-regulatory organization, state regulatory agency, or others, including criminal authorities, for possible action. On occasion and usually in the context of exigent circumstances, the examination staff may make a referral to the Division of Enforcement without conducting an exit interview.

The examined entity will be asked to respond in writing to any issues identified in a deficiency letter, including any steps that it has taken or will take to address the issues and to prevent their reoccurrence. The entity's response will generally be due within 30 days of the date of the deficiency letter.

An entity's submission of a timely and complete response to a deficiency letter will facilitate the examination staff's ability to complete the examination in a timely manner. In particular, an entity should make sure to address all of the issues identified in the deficiency letter. If the examination staff has comments on an entity's response, the examination staff generally will either provide them to the entity within 60 days of receipt of the entity's response, or contact the entity within the 60-day period to discuss when the examination staff will be able to provide comments. If the examination staff has no further comments after receiving an entity's response to a deficiency letter, the examination staff will send no further communication and the examination will be closed. The NEP conducts a limited number of Corrective Action Reviews in order to verify whether entities, including investment advisers, investment companies, and transfer agents, take the corrective actions discussed in their response to a deficiency letter. FINRA reviews corrective action taken in response to NEP deficiency letters during certain FINRA examinations of member broker-dealers; the NEP may also, on a limited basis, review broker-dealers for corrective action taken.

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If you have any questions, comments, complaints, or concerns during an examination or after it is completed, please raise them with the examination staff or with their supervisors in the respective regional office or the home office. Most questions and issues can be resolved by discussing them with the examination staff. You may also communicate comments, complaints, or concerns through the *Examination Hotline*, (202) 551-EXAM. The *Examination Hotline* offers callers a choice to speak with either an attorney in the Office of Compliance Inspections and Examinations in Washington, DC, or staff in the Commission's Office of Inspector General. The Office of Inspector General is an independent office within the Commission that conducts audits of Commission programs and investigates allegations of employee misconduct. Persons speaking with staff on the *Examination Hotline* may identify themselves or request anonymity.

IV. INFORMATION REGARDING THE COMMISSION'S OFFICE OF THE WHISTLEBLOWER

The Commission is authorized by Congress to provide monetary awards to eligible individuals who voluntarily come forward with high-quality, original information that leads to a Commission enforcement action in which over \$1,000,000 in sanctions is ordered. The range for awards is between 10% and 30% of the money collected. An “eligible whistleblower” is an individual who voluntarily provides original information about a possible violation of the federal securities laws that has occurred, is ongoing, or is about to occur. Information is provided “voluntarily” if it is provided to the Commission or another regulatory or law enforcement authority before (i) the Commission requests it from an individual or his/her lawyer; or (ii) Congress, another regulatory or enforcement agency, or self-regulatory organization (such as FINRA) asks the individual to provide the information in connection with an investigation or certain examinations or inspections. One or more people are allowed to act as a whistleblower, but companies or organizations cannot qualify as whistleblowers. A person is not required to be an employee of an entity to submit information about that entity.

The Commission’s Office of the Whistleblower administers the whistleblower program. Additional information about the program, including how to submit a tip under the program, is available at www.sec.gov/whistleblower. The Office of the Whistleblower may be reached at (202) 551-4790.