

SEC Division of Examinations Releases Its 2026 Examination Priorities

A Return to Core Principles, with a Cooperative Tone

November 25, 2025

Delayed slightly by the recent government shutdown, the Division of Examinations (the Division) of the Securities and Exchange Commission (SEC) recently published its fiscal year 2026 examination priorities (the Priorities).¹ The Priorities include specific examination areas relating to investment advisers, broker-dealers, self-regulatory organizations, investment companies and other financial market participants. While some of the Priorities are consistent with prior years, the Priorities reflect an intentional move towards improving compliance in a way that is both transparent and practical. In the press release accompanying the Priorities, SEC Chairman Paul Atkins stated that, "examinations are an important component to accomplishing the agency's mission, but they should not be a 'gotcha' exercise ... the [Priorities] should enable firms to prepare to have a constructive dialogue with SEC examiners and provide transparency into the priorities of the agency's most public-facing division."²

Key Takeaways

In reviewing the Priorities, the key takeaways are:

- Operating an examination program consistent with the SEC's move away from "regulation by enforcement;"
- Continuing focus on core compliance issues as in prior years, such as fiduciary duties, conflicts of interest, custody, protection of retail customers, net capital and customer protection, Regulation Best Interest, and preparing for compliance with the amendments to Regulation S-P.
- In short, the Priorities suggest a shift toward a more cooperative, business-supportive mindset, while also reinforcing the need for examinations to advance the SEC's broader goals of promoting compliance, preventing fraud, policymaking and monitoring risk;

- Focusing on alternative investments, including private credit, while seemingly reducing the focus on private funds (which no longer have their own designated section in the Priorities for the first time since 2019);
- Removing digital assets and crypto from the Priorities (for the first time since 2021); and
- Renewing attention on emerging technologies and practices (such as extended-hours trading, cybersecurity and artificial intelligence), while focusing on accurate disclosures and supervision of activity to confirm that technology operates consistent with customer expectations, investment objectives, and regulatory requirements.

We address these and other aspects of the Priorities below.

Continued Focus Areas in the Priorities

As noted above, the Priorities are largely consistent both with prior years and with the core compliance goals of the SEC (i.e., investor protection and market integrity).

For example, the Priorities for self-regulatory organizations such as the Financial Industry Regulatory Authority and the Municipal Securities Rulemaking Board remain virtually unchanged. Similarly, investment advisers will be tested for compliance with fiduciary standards, as they have been since the first set of examination priorities was released in 2013.

For broker-dealers, the Priorities suggest that the Division expects to examine for compliance with regulations pertaining to Regulation Best Interest, Form CRS and managing conflicts of interest in retail sales practice, among other topics.

As with previous years, the Division will prioritize examination of advisers that have never been examined, and newly registered firms can expect "welcome to the neighborhood" examinations. Lastly, all firms can anticipate examinations to review effectiveness of a firm's compliance programs and accuracy in disclosures addressing fee-related conflicts.

Renewed Focus on Transparency and Practicality

Two themes throughout the Priorities are transparency and practicality. This is an extension of the prior year's examination priorities,³ in which the Division emphasized transparency and proactive communication.

In the Priorities, the Division suggests a collaborative approach to compliance, with a goal toward achieving compliance with federal regulations that is "both transparent and practical."⁴ The Division recognizes that market participants must navigate an increasingly complex and ever-changing regulatory landscape and that the Division, through its examination process, can help support

registrants as they develop effective compliance programs. In practice, this support takes the form of sharing key examination observations with stakeholders and engagement with firms about their progress toward preparing compliance programs.

Similarly, the Priorities take a proactive view of technology and industry-wide innovations, specifically referencing generative artificial intelligence (AI), automated investment tools, automated advisory services and extended trading hours. The focus here is consistent with the SEC's approach to foster innovation in the US financial markets.

The Division's message is clear: firms can and should continue to innovate, but remain mindful of, and account for, the risks of such innovation. The Priorities make it clear that the Division is willing to aid firms in innovating, by continuing to provide Risk Alerts and other guidance on best practices and conducting examinations in a way that identifies and helps examined firms mitigate these risks. Just as the SEC is moving away from regulation by enforcement to allow innovation, the Division is moving away from "gotcha" examinations for the same effect.

Notable Exclusions from the 2026 Examination Priorities

While many of the Priorities mirror those from the prior year, there are two notable changes. There is no longer a dedicated section for: (1) private fund advisers or (2) digital assets or other crypto-related technologies.

Advisers to Private Funds

Conspicuously absent from the Priorities is a standalone section dedicated to private fund advisers. This represents a notable shift in focus, given that private fund advisers have warranted their own section since 2019.⁵

While the absence of a dedicated section is notable, we caution that the Division's focus on private fund advisers remains present in the Priorities, particularly given the Division's focus on fiduciary standards of **all** investment advisers with respect to (1) recommendations of investments products with alternative investment strategies and characteristics, (2) advising private funds alongside managed accounts and (3) advising newly launched private funds.

Crypto and Related Digital Assets

The Priorities no longer include a standalone section devoted to crypto and related products. Unlike private fund advisers, the crypto section has not been absorbed into another section, suggesting a potential de-prioritization of examinations concerning crypto assets compared to prior years.

While this exclusion may suggest that crypto is not a priority for the Division, Chairman Atkins has made clear that crypto and digital assets are a top priority. In July, the Chair announced an agency-wide effort to modernize the securities markets using blockchain, called Project Crypto and directed Staff to draft clear and simple rules of the road for crypto asset distributions, custody, and trading for public notice and comment.⁶

Notable Additions to the Priorities

The Priorities alter the focus of examinations relative to the prior year in three main areas: (1) information security and privacy, (2) technological advances and (3) extended hours trading.

Information Security and Privacy: Regulation S-ID and Regulation S-P

The Division will assess registrants' compliance with Regulation S-ID and Regulation S-P. This includes examining firm policies and procedures, internal controls regarding data management and oversight of third-party vendors. Specifically, regarding Regulation S-ID, examinations will assess a firm's development and implementation of a written Identity Theft Prevention Program (Program) that is designed to detect, prevent and mitigate identity theft in connection with customer (that is, consumer) accounts and whether the Program is reasonably designed to identify red flags of identity theft and whether it is training employees in identity theft prevention.

Throughout 2026, those firms that are subject to Regulation S-P (including investment advisers and broker-dealers with consumer accounts) will start reaching the compliance dates for the 2024 Regulation S-P amendments.⁷ To help prepare for those compliance dates, the Division will focus on the firm's progress toward preparing programs "designed to detect, respond to, and recover from unauthorized access to or use of customer information."⁸

Technological Advances

The Division remains focused on firms' use of automated investment advisory services and recommendations. These examinations will place a spotlight on registrants' use of AI or other automated investment tools, trading algorithms and the risks associated with emerging technologies.

The Division will assess whether (1) representations are fair and accurate, (2) there are controls in place, (3) algorithms lead to advice consistent with an investor's investment profile, and (4) the firm's controls to confirm that advice given using automated tools is consistent with regulatory obligations to investors, including retail and older investors.

Extended Hours Trading and other Broker-Dealer Focus

The Priorities focus on extended hours trading, including risks (e.g., potential lack of liquidity, limited price discovery, etc.) to customers of trading during these times.

The Priorities also focus on more traditional trading topics, such as Reg SHO and compliance with the bona fide market making exception, Regulation ATS (albeit with a narrow focus on the confidential trading information provisions of Regulation ATS and accuracy of disclosures on Form ATS-N of ATS's trading NMS securities), and the perennial topic of best execution and order routing.

Conclusion

The Priorities mark another milestone in the Commission's move away from regulation by enforcement and evidence a more business-cooperative Commission and Commission staff. The Division of Examinations clearly intends to conduct meaningful examinations, but will do so focused on core compliance issues and disclosure-based issues, thereby leveraging its fewer resources. The Division will continue to re-evaluate and publish risk-based priorities and how it approaches various trends in the markets, new and emerging products and services and its examination processes to communicate clearly with examined entities on both appropriate practices and the Division's expectations. While the Priorities highlight the areas on which the Division is focusing and for which the Division intends to dedicate resources, it is not an exhaustive list of issues. Consequently, firms should prepare accordingly with careful attention and consideration to their business practices, policies and procedures, and core compliance programs.

¹ Div. of Examinations, U.S. Sec. and Exch. Comm'n, Fiscal Year 2026 Examination Priorities (2026), [Link to 2026 Examination Priorities](#).

² Press Release, Div. of Examinations, Sec. and Exch. Comm'n, SEC Division of Examinations Announces 2026 Priorities (Nov. 17, 2024), [Link to Press Release](#).

³ For more information on the 2025 Examination Priorities, See Katten's post, *SEC Division of Examinations Publishes 2025 Priorities*, [Link to Client Advisory](#)

⁴ Div. of Examinations, U.S. Sec. and Exch. Comm'n, Fiscal Year 2026 Examination Priorities (2026), [Link to 2026 Examination Priorities](#).

⁵ Office of Compliance, Inspections, and Examinations, U.S. Sec. and Exch. Comm'n, 2019 Examination Priorities (2019), [Link to 2019 Examination Priorities](#).

⁶ For more information on Project Crypto, See Katten's post, *Key Developments From the SEC's Project Crypto: Additional Katten Thought Leadership*, [Link to Client Advisory](#).

⁷ See SEC, [Regulation S-P: Privacy of Consumer Financial Information and Safeguarding Customer Information](#), Exchange Act Release No. 100155 (May 16, 2024). (Adopting amendments to Regulation S-P that apply to broker-dealers, funding portals, investment companies, SEC-registered investment advisers, and transfer agents registered with the SEC or another appropriate regulatory agency (collectively, "covered institutions") in their dealings with "consumers" and are designed to modernize and enhance the protection of consumer financial information by: (1) requiring covered institutions to develop, implement, and maintain written policies and procedures for an incident response program that is reasonably designed to detect, respond to, and recover from unauthorized access to or use of customer information (that is, information of a consumers with a customer relationship); (2) requiring that the response program include procedures for covered institutions to provide timely notification to affected individuals whose sensitive customer information was, or is reasonably likely to have been, accessed or used without authorization; and (3) broadening the scope of information covered by Regulation S-P's requirements).

⁸ Div. of Examinations, U.S. Sec. and Exch. Comm'n, Fiscal Year 2026 Examination Priorities (2026), [Link to 2026 Examination Priorities](#).

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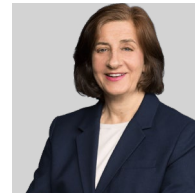
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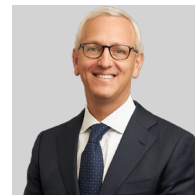
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